



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 107<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 147

WASHINGTON, THURSDAY, NOVEMBER 8, 2001

No. 154

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

The PRESIDING OFFICER. The guest Chaplain, Elder Francis Cree, the Spiritual Leader of Turtle Mountain Band of Chippewa Indians, in Dunseith, ND, will lead us in prayer.

### PRAYER

The guest Chaplain, Elder Francis Cree, offered the following prayer:

[Speaking Chippewa]

Great Spirit of God, we want to thank You for this wonderful day You have given us, for all the many good things You have blessed us with. You have also given us this love and respect and unity and faith in God. And we ask You, at this time, that You bless the President, and all his employees, and all of us here and all over the world. We thank You. We thank You, again.

That is the prayer I said in the Chippewa language.

### PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 8, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON,

a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from North Dakota.

### WELCOMING ELDER FRANCIS CREE OF NORTH DAKOTA

Mr. CONRAD. Mr. President, I am pleased this morning to welcome a good friend and distinguished North Dakotan, Francis Cree, to the Senate. I thank him for his moving and inspirational prayer.

Francis Cree is the Spiritual Leader and Tribal Elder of the Turtle Mountain Band of Chippewa of North Dakota. He is the official Pipe Carrier for the Tribe, a position of honor and leadership. He led the tribe as chairman in the 1950s and served several terms on the Tribal Council.

Francis spends countless hours teaching young tribal members about Chippewa culture and traditions. Last year, he even made an award-winning CD called, "The Elders Speak."

Francis is married to Rose Cree, a well-known artist who makes beautiful willow and birchbark baskets, several of which are displayed in my office. They were recently featured at the Smithsonian's Festival of American Folk Life on the Mall here in our Nation's Capital.

Francis and Rose have 14 children, and, according to Rose, "too many grandchildren and great-grandchildren to count, but there are well over a hundred." In May, Rose and Francis will celebrate 63 years of marriage.

Congratulations to you both.

I am very pleased to welcome Francis Cree to the Senate this morning. I thank him for being here and for sharing his inspiring message with us.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, before my friend from North Dakota leaves the Chamber, and before Spiritual Leader and Tribal Elder Cree leaves the Chamber, I say, I never had the opportunity in the Senate Chamber to say this to anyone who would understand it, but the Senator from North Dakota and the tribal leader will: I am a Pipe Carrier for the Pyramid Paiute Tribe in northern Nevada. I have been through the ceremony. It was very dignified and impressive. It was a ceremony I will never forget.

So I am very happy we have had this very time-honored tradition now done in opening the Senate in prayer. I congratulate the Senator from North Dakota in bringing one of the most-renowned citizens of his State to the U.S. Capitol.

Mr. CONRAD. I thank my colleague from Nevada.

My colleague, Senator DORGAN, is chairing a hearing in another part of the Capitol complex and will come to the Chamber later today to also memorialize this occasion. I do not want this moment to pass without indicating Senator DORGAN was here earlier but had to leave to chair a meeting of his subcommittee elsewhere in the Capitol complex or else he would be here as well.

I thank the Chair.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S11567

## SCHEDULE

S. 1428

Mr. REID. Mr. President, this morning, the Senate will begin consideration of the Intelligence Authorization Act. The only amendments in order to this bill are relevant amendments, with the exception of two possible amendments regarding immigrant deportation that may be offered by Senator SMITH of New Hampshire and Senator LEAHY. Rollcall votes are possible throughout the day.

I note that we are expecting to receive from the House at or about noon today the VA-HUD appropriations bill that has been worked on for many months, led by Senator MIKULSKI and the ranking member, Senator BOND. It is a very important bill.

This will be the sixth bill we would send to the President for his signature. There are other appropriations conference reports moving toward completion now. We should be able to do several more of those in the next few days.

I also indicate that we have some extremely important items to consider, as the entire Senate knows. We are hopeful of working on the stimulus package next week. The majority leader will have announcements about that later on in the day.

We have a lot to do on most-important matters, but I indicate, it is very timely we will be working today on the intelligence authorization bill. The two managers will be Senator GRAHAM of Florida and the ranking member, Senator SHELBY of Alabama. We hope to complete the bill very soon today. It should not take a lot of time we hope. But whatever time it takes, we need to complete that legislation today.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1428, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1428) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Intelligence without amendment and the Committee on Armed Services with amendments, as follows:

(The parts of the bill intended to be inserted are shown in *italic*.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ‘‘Intelligence Authorization Act for Fiscal Year 2002’’.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

#### TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DIS- ABILITY SYSTEM

Sec. 201. Authorization of appropriations.

#### TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Judicial review under Foreign Narcotics Kingpin Designation Act.

Sec. 304. Modification of positions requiring consultation with Director of Central Intelligence in appointments.

Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.

Sec. 306. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.

Sec. 307. Review of protections against the unauthorized disclosure of classified information.

Sec. 308. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.

Sec. 309. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.

Sec. 310. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.

*Sec. 311. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.*

#### TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.

Sec. 402. Modifications of central services program.

#### TITLE I—INTELLIGENCE ACTIVITIES

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

##### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill \_\_\_\_\_ of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

##### SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

##### SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of \$238,496,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there are also authorized to be appropriated for the Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community

Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) **REIMBURSEMENT.**—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) **NATIONAL DRUG INTELLIGENCE CENTER.**—(1) **IN GENERAL.**—Of the amount authorized to be appropriated in subsection (a), \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

(2) **TRANSFER OF FUNDS.**—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) **LIMITATION.**—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) **AUTHORITY.**—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of \$212,000,000.

### **TITLE III—GENERAL PROVISIONS**

### **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.**

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

### **SEC. 303. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.**

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106-120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

### **SEC. 304. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.**

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403-6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) The Director of the Office of Intelligence of the Department of Energy.

“(D) The Director of the Office of Counterintelligence of the Department of Energy”.

### **SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.**

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “To the extent”; and

(2) by adding at the end the following new subsections:

“(b) **FORM AND CONTENTS OF CERTAIN REPORTS.**—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

“(1) A concise statement of any facts pertinent to such report.

“(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

“(c) **STANDARDS AND PROCEDURES FOR CERTAIN REPORTS.**—The Director of Central Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).”.

### **SEC. 306. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.**

(a) **AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.**—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: “Upon making the determination, the Inspector General shall transmit to the Director notice of the determination, together with the complaint or information.”; and

(2) in subparagraph (D)(i), by striking “does not transmit,” and all that follows through “subparagraph (B),” and inserting “does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B).”.

(b) **AUTHORITIES OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.**—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: “Upon making the determination, the Inspector General shall transmit to the head of the establishment notice of the determination, together with the complaint or information.”; and

(2) in subsection (d)(1), by striking “does not transmit,” and all that follows through “subsection (b),” and inserting “does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b).”.

### **SEC. 307. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.**

(a) **REQUIREMENT.**—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers ap-

propriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) **PARTICULAR CONSIDERATIONS.**—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) **REPORT.**—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following:

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

### **SEC. 308. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLEGAL DRUG TRAFFICKING.**

(a) **CERTIFICATION REQUIRED FOR IMMUNITY.**—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2837; 22 U.S.C. 2291-4) is amended by striking “, before the interdiction occurs, has determined” and inserting “has, during the 12-month period ending on the date of the interdiction, certified to Congress”.

(b) **ANNUAL REPORTS.**—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) **ANNUAL REPORTS.**—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

“(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

“(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

“(C) A complete description of any assistance provided under subsection (b).

“(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

“(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.”

#### **SEC. 309. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

#### **SEC. 310. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.**

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Presidential Decision Directive 75, dated December 28, 2000, entitled “U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century”, including any modification of the Strategy or any such Assessment, shall be approved by the President, and shall be submitted to the appropriate committees of Congress.

#### **SEC. 311. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.**

(a) *CONSULTATION IN PREPARATION.*—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) *SUBMITTAL.*—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

#### **TITLE IV—CENTRAL INTELLIGENCE AGENCY**

#### **SEC. 401. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.**

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) in subsection (f), by striking “September 30, 2002” and inserting “September 30, 2003”; and

(2) in subsection (i), by striking “or 2002” and inserting “2002, or 2003”.

#### **SEC. 402. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.**

(a) *ANNUAL AUDITS.*—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking “December 31” and inserting “January 31”; and

(2) by striking “conduct” and inserting “complete”.

(b) *PERMANENT AUTHORITY.*—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking “paragraph (3)” and inserting “paragraph (2)”;

(4) in paragraph (2), as so redesignated, by striking “paragraph (2)” and inserting “paragraph (1)”.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. GRAHAM. Mr. President, with my friend and colleague, Senator SHELBY, I bring to the Senate S. 1428, the Intelligence Authorization Act for the fiscal year 2002.

The tragic events of the past months and the reality that our Nation is engaged in a war against global terrorism make this year's intelligence authorization bill especially important. We all realize that good and timely intelligence is our first and sometimes our only line of defense against terrorism.

It is not enough for us to attempt to determine who was the culprit and to bring that culprit to justice. What the American people want most is the capability to prevent acts of terrorism, which necessitates the best intelligence information on a timely basis so that actions to interrupt terrorist activities can take place before more Americans are attacked.

To accomplish this prevention of terrorism strategy, we must provide our intelligence community with the resources and the authorities it needs to meet the expectations of the American people.

Many of those authorities were contained in the antiterrorism act which the President signed the last Friday of October. Today we are going to be talking about the resources that will give life to those authorities and to the ongoing activities of the intelligence community.

Our Select Committee on Intelligence marked up this bill on September 6, submitted it to the Armed Services Committee, and the Armed Services Committee has now reported the bill as submitted.

Even though we took legislative action before September 11, we noted at the time that international terrorism was not a crisis—with it, the connotation that it is a short-term passing phenomenon—rather, international terrorism is a condition with which we will have to deal on a long-term basis.

The committee strongly encouraged the intelligence community to orient itself accordingly by implementing policies under the control of the Director of Central Intelligence for regulating the various roles of the elements of the intelligence community that

participate in the fight against terrorism. To that end, our legislation authorizes activities that will rebuild the foundation of our intelligence community so we can meet our long-term challenges.

In the process of preparing this year's intelligence authorization bill, the committee spent considerable time reviewing the current status of the intelligence community.

At this point, I recognize our vice chairman, Senator SHELBY. He, of course, had been the chairman of this committee for a considerable period of time and started much of this process of in-depth review of the intelligence community which then put us in a position to take advantage of that work to provide what today will be some of the prescriptions based on the diagnosis of the problems. I particularly recognize Senator SHELBY and the work in which he led the committee and our staff for many months.

As a result of this review, we concluded that the intelligence community has been underfunded over the past decade—basically, the decade since the fall of the Berlin Wall—and its ability to conduct certain core missions had deteriorated.

In order to correct these deficiencies, the committee identified four priorities to receive special emphasis in this year's bill: One, revitalization of the National Security Agency; two, correcting deficiencies in human intelligence; three, addressing the imbalance between collection and analysis; and four, providing sufficient funding for a robust research and development series of initiatives. These four priorities underpin the work of the intelligence committee in all areas, including counterterrorism.

The committee believes that providing additional resources in these priorities is critical to assuring that the intelligence community is capable of providing our political and military decisionmakers with the accurate and timely intelligence they require to make the best decisions in the interest of the American people.

By providing proper resources and attention to these four priorities, we will be able to support effectively the requirements placed on the intelligence community, including fighting global terrorism, but also a list of other challenging responsibilities: countering the proliferation of weapons of mass destruction and their delivery system; stopping the flow of illicit narcotics; and understanding the capabilities, potential, and intentions of potential adversaries and foreign powers.

It is important to note that the committee recognizes that a consistent and predictable funding stream is necessary to rebuild and maintain these priority areas.

In preparing this year's legislation, the committee outlined a 5-year plan for each of these priorities. We believe this plan is consistent with the capacity of the various agencies within the

intelligence community to absorb these additional funds and use them effectively, and that will result in a substantial new foundation under our intelligence community over the next 5 years in order to meet the challenges of the next decades. We know that our commitment to rebuild our intelligence community must be sustained over the long-term or our efforts this year will be wasted.

Let me briefly explain what we are doing in each of these four priority areas.

First, we are continuing the revitalization of the National Security Agency, or the NSA. The committee, under the leadership of Senator SHELBY, has been pressing for this revitalization over the past 3 years. The NSA is the agency of our intelligence community that is responsible for assuring the security of United States communications, as well as collecting foreign electronic signals. In the parlance of intelligence, this is the signals agency.

Five years from now, the NSA must have the ability to collect and exploit electronic signals in a vastly different communications environment than that in which we spent most of the second half of the 20th century. Along with significant investment in technology, this means closer collaboration with clandestine human collectors.

If I could explain briefly, during the Cold War, the United States became extremely adept at intercepting electronic communications. Our system was largely based on communications that would move over the airwaves. We would put a listening device between the sender and receiver and could absorb massive amounts of information with relative impunity.

Today, the computer and telecommunication systems that NSA employees will be attempting to intercept are much more difficult because they do not use the old over-the-airwaves system. To have the same level of electronic surveillance today that we did even 10 years ago is going to require a significant investment in new technology. I mentioned, also, the linkage to human intelligence. It was relatively easy to eavesdrop on the old communication technology. The new communication technologies will frequently require a human being to first gain access to the machine that you are trying to surveil, and then have that person who has gained access have sufficient technical capacity to be able to install the devices that are necessary to gain the information. So we are going to have to have a new generation of human intelligence that has a significantly higher component of technical expertise, especially in the communications area.

The analysts—the ones who take this information that is collected—must have sophisticated software tools to allow them to fully exploit the amount of data that will be available in the future. So our first objective is a continuation of the 3-year effort to revitalize the National Security Agency.

Second, we must correct deficiencies in our human intelligence capabilities. In 5 years, our human intelligence collection efforts must be designed to meet the increasingly complex and growing set of human intelligence collection requirements.

Most of the history of our intelligence community is since the Second World War. During World War II, we established America's first professional intelligence agency under the direction of the military. As soon as the war was over, it was disbanded. Two years later, President Truman, recognizing the rise of the Soviet Union, asked the Congress to establish a civilian agency and designate a director of central intelligence. Under that director, there were a number of agencies, such as the Central Intelligence Agency. For the next 40 years, we focused on one big target: the Soviet Union and its Warsaw pact allies.

As I indicated, in the area of signals intelligence, we became very adept at listening to that big target. People were speaking basically in Russian. It was a culture that we understood and with which we had a long association since John Quincy Adams was our Ambassador to the czarist court in St. Petersburg.

Now, in the post-Berlin Wall period, we are dealing with a wide diversity of targets, not just one. Many of these are targets with which we have not had a great deal of national history, and they speak many languages. In Afghanistan, for instance, in addition to English and Arabic, there are at least six major domestic languages. We are very deficient in our capabilities as a nation in many of these languages.

We must increase the diversity of our human intelligence, our spies. We must recruit more effectively to operate in many places around the world where U.S. interests are threatened. The human intelligence system must be integrated into our other collection systems, particularly, as I indicated, with our National Security Agency, in order to gain effective access to new communications technology.

In addition, the Director of Central Intelligence must conduct a rigorous analytical review of human intelligence collection requirements in the future so that we can be proactive with the resources necessary to meet those requirements. The Director of Central Intelligence must implement a performance measurement system to assure that our collection efforts are meeting the highest priority needs of our ultimate customers for intelligence—the President and military decisionmakers.

Our third priority is addressing the growing imbalance between collection and analysis. Even with the deficiencies that I have mentioned in signals intelligence and human intelligence, we are still collecting a massive amount of information on an hourly basis. But the percentage of this collected information to that which is

analyzed and converted into effective intelligence has been steadily declining since 1990. Collection systems are becoming more and more capable as our investment in analysis erodes. This disparity threatens to overwhelm our ability to analyze and use the information collected.

The nightmare of the review of the events of September 11 would be if we find that there was a wiretap, for instance, on a foreign resident whom we had reason to suspect might be involved in some potential terrorist plot against the United States but that wiretap had not been listened to, translated from its foreign language—frequently it is an encrypted foreign language—into English and then analyzed in terms of what did it mean in terms of American security, and then that analysis is transferred to an effective law enforcement agency which could do something about the threat to American security. That nightmare underscores the importance of having the adequate capacity to analyze and convert information into intelligence.

To address this problem, the committee has added funds for the Assistant Director of the Central Intelligence Agency for Analysis and Production to finance promising new analytical initiatives that will be beneficial across the intelligence community.

The amount authorized is a downpayment on a 5-year spending profile to rebuild the community's all-source analytical capability. The words "all-source" refer to the fact that today there is a growing volume of information which is not clandestine, which is available through the newspapers, through other forms of public information, through the Internet. The challenge for the analysts of today is to take that open-source information and add to it the clandestine information gathered by our variety of sources and then produce a final intelligence document which will add to the ability of the ultimate decisionmaker, whether it is a military officer planning a combat action or whether it is the President of the United States attempting to set a strategic direction for American foreign policy. That decisionmaker will be in a better position to make an informed judgment to benefit the people of America.

The committee has also included funding to implement the National Imagery and Mapping Agency, known as NIMA, which is the agency that collects imagery for intelligence purposes. We will fund internal modernization plans to support this imagery analysis associated with the future imagery architecture of our satellite system.

The fourth and final priority for the intelligence community is providing additional funding for a robust research and development initiative. Over history, one of the hallmarks of American intelligence has been its leadership role in world technology. The U-2, which was groundbreaking in terms of aviation technology, was built

by the CIA in just a matter of weeks when it was recognized that we needed to have an overhead capacity to observe the Soviet Union, particularly during the period that the Soviet Union was accelerating its nuclear program.

Many of the telecommunications advances we now utilize and take for granted were first developed by the National Security Agency as part of our intelligence effort.

Over the decade since the fall of the Berlin Wall, it has been stated that the intelligence community has often used its research and development budget as a bill payer for funding shortfalls in other programs and that we have sacrificed the modernization and the innovation of technology in the process.

The committee has outlined a plan to reverse the intelligence community's declining investment in advanced research and development. The committee's classified annex includes a requirement for a review of several emerging technologies to determine what will provide the best long-term return on our investment.

The committee also encourages a symbiotic relationship between the intelligence community and the private sector using innovative approaches, such as the CIA's In-Q-Tel. In-Q-Tel is a venture capital fund, largely funded by the U.S. intelligence community, to stimulate new technologies through private sector entrepreneurs. It shows great promise.

I should also mention that there is a fifth priority we have identified but to which we have not yet given the specific emphasis in this year's legislation as we will in the next. This area is referred to as MASINT. It is the newest form of intelligence collection; that is, the collection of measurements and signatures intelligence.

MASINT encompasses a variety of technical and intelligence disciplines that are particularly important in countering the proliferation of weapons of mass destruction and their delivery system. While the committee recognizes the importance of this vital area of intelligence, we are awaiting the completion of a community-wide review of our MASINT capabilities which was required by the fiscal year 2000 intelligence authorization bill. This study will include recommendations for building a robust MASINT capability that will meet the challenges of the 21st century.

Admiral Wilson, the Director of the Defense Intelligence Agency, is leading this effort and has assured the committee this review will be completed and forwarded to the Congress in time to be considered as we prepare next year's authorization bill. We expect that rebuilding our MASINT capability will be a priority item in next year's legislation.

I am confident we have outlined a 5-year plan that will rebuild and reenergize our intelligence community so that it can meet the challenges before

it. The events of September 11 have increased the complexity as well as the quantity of those challenges to our intelligence community. I urge my colleagues to support this legislation and help it move to the President's desk as expeditiously as possible so that the resources we are authorizing can get to the community which needs them.

I conclude by thanking some of those who have helped in the production of this important legislation. First, as I have indicated, much of this legislation is built on the foundation of the work that has been done over the past several years by our vice chairman, Senator RICHARD SHELBY. He has been a valued partner and a good friend as we have worked through this legislation, as well as some of the other challenges the committee has faced this year. The members of the committee have played an active and constructive role in the development of this legislation.

Our staff director, Al Cumming, our deputy director, Bob Filippone, and chief counsel, Vicki Divoll, have led the effort to put this bill together, as have our budget director, Melvin Dubee, chief clerk, Kathleen McGhee, and security director, Jim Wolfe.

I might say, our security director has been especially challenged in the last few weeks as our offices are in the hot zone of the Hart Building, and we have been evacuated for the past 3 weeks while still maintaining security over a large volume of very sensitive documents.

I also thank Senator SHELBY's staff director, Bill Duhnke, for his work and assistance in putting this legislation together. This committee has had a long history of bipartisanship. We do not have a Democratic staff or Republican staff; we have "a staff," and they work together effectively to serve the Senate and the American people.

We have faced some unique challenges this year. The shift of control in the Senate was handled professionally and smoothly by our members as well as our staff. I again thank Senator SHELBY for his great contribution to that effort.

The comprehensive review of the defense and intelligence budgets caused us to receive the administration's budget request later than normal. This required our staff to work through the August recess and over the Labor Day weekend to prepare for our September 6 markup.

The anthrax contamination in the Hart Building has forced us out of our offices for an extended period of time. Again, our staff has met the challenge and continues to fulfill its obligations under these challenging circumstances.

I thank Mike DeSilvestro and his staff in the Office of Senate Security who have handed over some of their space and have shared their offices with our committee.

I also thank Congressman PORTER GOSS, the chairman of our House counterpart committee, and his staff who have been equally accommodating.

I am deeply indebted to all of these individuals and to our entire committee staff for their dedication, professionalism, and commitment to public service.

I commend to our colleagues in the Senate the legislation which is the Intelligence Authorization Act for this fiscal year and urge its adoption.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Alabama.

Mr. SHELBY. Mr. President, the world is a very different place than it was the last time Congress passed an intelligence authorization bill. As we all know, we are now at war, but we are not only at war, we are in a particular kind of war: A war against global terrorism in which the lives of thousands of innocent Americans have already been lost.

This war has turned some of the conventional wisdom on its head. In past wars, intelligence agencies served to support the warfighter. In this war, however, the intelligence agencies are on the front lines all over the world.

Good intelligence has always been critical in wartime, but the war we fight today is an intelligence-driven one to a degree we have never seen before. This war has no front lines and the field of combat is global.

Wherever terrorists and their supporters can be found, that is the battlefield. Never before have we demanded or have we needed so much from our intelligence services. I have been privileged to serve as the chairman, and now the vice chairman, of the Senate Intelligence Committee. I treasure my relationship with the chairman, Senator GRAHAM. He has brought great, steady leadership to the committee. He is a veteran of the committee. He has been there a long time, we have worked together on a lot of initiatives, and we are going to continue to do that.

Some of what I have learned about our intelligence community over the last 7 years that I have been on the committee is very encouraging. It has many truly outstanding people doing very good work. Today it is working, actually right now, to respond vigorously to the unprecedented demands this war places upon it. But our intelligence community has changed far less rapidly than the world around it. In too many important ways, it remains structured as it was during the cold war.

The U.S. intelligence services were crucial to our victory in the cold war, but times have changed and they keep changing.

Our intelligence system still remains wedded to the institutional fiefdoms and information stovepipes of the past. Our intelligence community is still too little of a community and too much of a freewheeling federation that lacks effective, centralized control and management.

We have a nominal Director of Central Intelligence who has and apparently is resigned to having little authority over the community he is supposed to head. Although the press of

events since the September 11 events have prompted our agencies to communicate and to cooperate with each other much better, we still have a very long way to go before U.S. intelligence can effectively meet this new challenge.

Helping our intelligence community overcome these problems will be a challenge for this Congress and the President in the months and years ahead. This bill before us today embodies the Senate's continued support for the intelligence community, authorizing its appropriations for the next fiscal year. It also represents a small first step in what will be our role in driving significant reforms in U.S. intelligence, by helping set the stage for improved oversight.

This bill, for example, increases Congress's ability to evaluate allegations of wrongdoing within the Central Intelligence Agency by requiring the CIA Inspector General to notify the Director of credible complaints against the agency.

Building upon the report our committee recently produced on CIA activities in interdicting illegal drug flights in Peru, the bill before us also requires special reporting and certifications by the President for such interdiction operations.

Additionally, the bill requires that national counterintelligence strategies and threat reports be approved by the President before being submitted to the Congress.

This bill is not a bill to revolutionize the intelligence community. That effort will take time, but I believe it is now inevitable. This is a bill to keep the intelligence community on an even keel while it tries to respond to the challenges it faces today, and while we work to help it change in the right ways.

I have long been a strong supporter of U.S. intelligence, and I am pleased that we in the Senate continue to support it with special vigor in this time of crisis. We have more to do, however, and Congress will continue its tradition of assertive oversight. It must. Today, more than ever, we need an intelligence community that is able to overcome the tyranny of its conceptual and institutional stovepipes. We need one that does not merely respond to our present emergency by doing more of the same, just with more money and more people. That will not be enough. A bigger and better funded status quo is not good enough. The status quo has not and will not serve us well in a world of increasing and more diverse threats.

I believe we need management that is able and willing to fight for the intelligence community within the administration and to reach out to unconventional thinkers. The time for "steady as you go" is over, and we need leaders who are not afraid to take on the ossified bureaucracies.

I believe Chairman GRAHAM and I agree that change must come, and it

will. Again, I commend Chairman GRAHAM for his efforts in getting this bill to the Senate today and managing it in a professional way. Senator GRAHAM's steady leadership of our committee has been instrumental during a turbulent period on Capitol Hill and throughout the Nation. I thank him again for his efforts and look forward to continuing our close working relationship.

At the end of the debate on this bill, I urge my colleagues to support it. It will permit our intelligence community to continue its current operations while we work to lay the foundations for a more capable intelligence community that can meet the challenges ahead.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

I have not had the opportunity while in the Senate to serve on the Intelligence Committee. It is a tremendous honor to serve on that committee. The things worked on in that committee are extremely important to our country. They always have been, but even more so the last 2 months. I have great admiration and respect for the bipartisan manner in which the Senator from Florida and the Senator from Alabama have handled this committee, especially during these most difficult times.

I read in this morning's paper there are efforts being made to do some consolidation within the intelligence-gathering community in our country. As someone not on the inside of what goes on in the intelligence community, from the outside it looked like a pretty good idea. I think one thing that should be done, and I have spoken both to the chairman and the ranking member of the committee, is this country needs to recognize terrorism is here for awhile. We as a country need to recognize there are certain things we need to do to better prepare to handle what these evil people are doing. As a first step, we need to consolidate the training of our Nation's first responders as well. I believe the Nevada Test is the best place to do that.

I have spoken, as I said, to the two managers of this bill about this ideas. I have also spoken to Governor Ridge, the terrorism czar, about this idea. I have spoken to the CIA Director.

This Nevada Test Site has played an important part in helping our nation win the cold war. As you know, I was born and raised in Nevada. As a little boy, I can remember getting up in my town of Searchlight because we knew an atomic blast was going to go off. We could see this bright orange thing in the sky, and then we could feel the force of that blast. We could not always feel it because sometimes it would bounce over us, but generally we

could. Those nuclear devices were set off in the desert north of Las Vegas at the Nevada Test Site.

The Nevada Test Site area is larger than the State of Rhode Island. This area has mountains, valleys, dry lakes. It already has a facility for testing chemicals. It has been there for a number of years. It has worked extremely well. You have large dormitories and restaurants handle the first responders who will come to train there.

The facility also has a network of tunnels through the mountains. They were developed originally to set off nuclear devices and they can now be used as a place where training could be done. Now they can be used to simulate hardened underground bunkers like we saw in Iraq.

We need a top gun school for training first responders. There is a tremendous facility in Alabama at Fort McClellan, but it is limited as to what it can handle. We need a facility that can handle all the training necessary for first responders. The Nevada Test Site can do that. Already, first responders and special operations training is occurring there. The energy and water bill we just completed includes \$10 million to help expand existing capabilities into a national antiterrorism center. There is also money in the Commerce-State-Justice bill for this.

A National Center for Combating Terrorism will offer all the people and organizations combating terrorism and the local first responders to the larger Federal resources a place to come together and train for the wars taking place today and in the future. It has it all: Caves, tunnels, mountains, valleys. It is very cold in the winter, very hot in the summer. The Nevada Test Site, without question, helped us win the cold war.

I hope we will look at the Nevada Test Site. I have a parochial interest, no question. It is quite obvious. But I haven't heard anyone tell me why this idea is wrong. I think it needs to be done. It is a facility that has tremendous potential.

The Nevada Test Site served our nation and helped it win the cold war. It can now help us fight the new wars we face today and will face tomorrow.

I appreciate the consideration the two managers of this bill have given me in my conversations with them. I certainly stand ready, as do the contractor and the Department of Energy, to make the facility available for those purposes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I appreciate the remarks our colleague from Nevada, Senator REID, has made regarding the contribution the Nevada Test Site has made to our development of weapons that were so critical to our success in the cold war and its potential for serving a role in the new war against terrorism. I appreciate the Senator's interest in increasing our capabilities to

wage and win this war. I assure him our committee will give full attention to this opportunity. I very much appreciate the Senator having brought this to our attention.

As the Senator from Nevada mentioned at the beginning of his remarks, this will be a period of some fundamental questions about the future of the intelligence community and how it can be best organized to deal with the new world in which we will be living, as opposed to the world in which it has spent most of its life to date, which was the world of a single enemy that we knew a lot about and that we had considerable experience in attempting to understand and respond to.

Mr. REID. Will the Senator yield?

Mr. GRAHAM. I yield.

Mr. REID. The chairman of this committee, the Senator from Florida, has been Governor of one of the biggest States in the United States. The State of Florida is not only large area-wise but has the fourth or fifth largest number of people in America. That gives me confidence that the Senator, who has had to administer an extremely large government, understands what is happening with our intelligence capability. Forty different entities are gathering intelligence information.

I have significant confidence in the Senator from Florida being chair. Because of the Senator's administrative experience, he is a great legislator, although being a great legislator does not always mean being a good administrator. It is extremely important for me to hear his thoughts based on experiences as the Governor of the State of Florida, and learning how to consolidate our intelligence information. I appreciate the Senator being willing to take the chairmanship of this most important committee. When the Senator took the chairmanship, he had no idea, as any of us, we would be in this war at this time. I look forward to improvements being made basically because of our special abilities.

Mr. GRAHAM. I appreciate those kind remarks. We do have a major challenge to see that the architecture of our intelligence agencies encourages innovative thinking, that the Senator's idea which he brings forward today will stimulate.

I, too, was impressed with the article that appeared in today's Washington Post about the recommendations being made to the President by a man for whom I have great respect, Gen. Brent Scowcroft, which, as reported, will call for a closer collaboration among the intelligence agencies. That is something that has long been recommended but difficult to achieve because we are asking agencies that have a piece of current intelligence jurisdiction to release their hold.

However, if we are to do things as suggested by the Senator from Nevada, new ways of thinking, of training for a new and continuous war—not only a war being fought over there but a war that is being fought right here on the

homeland of the United States—we are going to need to have new organizational relationships. Eventually it will be the responsibility of the Congress, since it was the Congress which created the old architecture, to be the principal architect if we are to rebuild our intelligence capabilities to deal with the new challenges we face.

I look forward to working with Senator REID, Senator SHELBY, and our colleagues in doing that in the most effective way and to be willing to put aside old ideas—not because old necessarily means they are bad ideas but be willing to challenge those ideas with new thinking to prepare to deal with new challenges.

Mr. NELSON of Florida. Mr. President, will the Senator yield?

Mr. GRAHAM. I yield.

Mr. NELSON of Florida. Mr. President, I want to echo the assistant majority leader's comments about the right man who rises to the top for the times.

Just to give an example in addition to the one the Senator from Nevada has already given about our former Governor having that unique experience because of his experience in State government, he understands now, uniquely, the vulnerability of the 300 deep-water ports that we have in this Nation because Florida itself has 14 deep-water ports.

We have passed out of our Commerce Committee a port security bill. It is coming to the floor, hopefully, very soon. Senator GRAHAM and I and Senator HOLLINGS will be offering an amendment to significantly increase the Federal grants for security and loan guarantees to the tune of some several hundreds of millions of dollars of grants, and to the tune, over a 5-year period, of some \$3.3 billion in loan guarantees. To do what? To try to make those ports more secure through badging, through sophisticated detection devices, through fencing, through guards, through gates, in addition to what the Coast Guard is already doing.

It is just another example of the leadership offered by the former Governor of Florida, now our senior Senator from Florida, and the chairman of the Intelligence Committee.

I wanted to add that one comment to the comments of the Senator from Nevada about the right man for the time. I would only say: Accolades to his ranking Republican on the committee as well, Senator SHELBY, who has been a dear personal friend of mine since we came to Congress together in 1978. I am confident in the leadership of our Intelligence Committee.

I yield the floor.

Mr. GRAHAM. Mr. President, obviously I am very touched by those kind remarks by my friend, colleague, and fellow Floridian, Senator NELSON.

To speak to the broader point he made, using the example of seaport security, one of the things we as a nation cannot allow ourselves to lapse into is a practice of waiting until one of our

infinite number of vulnerabilities has actually been attacked before we start the process of attempting to make it more secure. We have been attacked in the last 2 months basically in two areas: The conversion of commercial aircraft into weapons of mass destruction, and the use of the Postal Service to distribute anthrax. We don't know yet what the origin of that second attack was. We are now responding.

We have passed massive economic assistance to the airline industry. We have now in conference legislation passed by both Houses in the area of airline and airport security. We will soon have a major bioterrorism bill before us, largely in response to the anthrax issue. Our Postal Service is now moving at the fastest possible pace to install technologies to check our mail to see that it is safe.

While we are doing that, and that is certainly appropriate, we cannot forget all these other vulnerabilities. If you had asked me 5 years ago what I thought was the more likely to be the target of a terrorist, a commercial airline or a container delivered at an American seaport, I would have said the container. Why would I have said that? Because the security standards in our seaports are substantially less rigorous than at airports and airlines, even before September 11.

Just a few statistics. We have 361 seaports, as Senator NELSON has outlined. Into those 361 seaports today and every day are delivered an average of 16,000 containers from noncontiguous nations; that is, not from Mexico or Canada but from the rest of the noncontiguous world. Of those 16,000, less than 3 percent are subject to close inspection. If a terrorist wanted to use one of those containers as a weapon of mass destruction, as 757s were used as weapons of mass destruction on September 11, frankly his chances of detection would be minimal.

I have gotten some criticism making that same statement, suggesting that I am disclosing some confidential information of which the terrorists might rush to take advantage. I am certain the terrorists are well aware of those statistics because they have been widely reported.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in yesterday's New York Times, based on their analysis of one relatively moderate-size port in America, the one at Portland, ME, and its vulnerabilities.

There being no objection, the article ordered to be printed in the RECORD, as follows:

[From The New York Times, Nov. 7, 2001]

THE SEAPORTS—ON THE DOCK, HOLES IN THE SECURITY NET ARE GAPING

(By Peter T. Kilborn)

PORTLAND, ME., Nov. 3.—The big cargo ships and ships with truck-size containers pull up to docks where no one inspects their contents. Brown tankers from the Middle East steam into the bay, slide under a drawbridge that bisects the Fore River and tie up

by terminals, tanks and a pipeline that carries the oil that heats Montreal.

In warmer weather, cruise ships like the QE2 and the Royal Empress with up to 3,000 tourists park at piers on busy Commercial Street, right next to Portland's lively downtown.

For Portland's officials, the scene, at least before Sept. 11, was a point of pride, the sign of a strong economy and a proud maritime heritage. Now it evokes fear and uncertainty. The unscrutinized containers, the bridge, the oil tanks, the dormant but still-radioactive nuclear power plant 20 miles north of the harbor—all form a volatile mix in a time of terrorism.

The usual barrier is chain-link fence. "It keeps out the honest people," said Paul D. Merrill, owner of a cargo terminal. "That's what it comes down to." The Port of Portland, Police Chief Michael Chitwood said, "is a tinderbox."

Remote as it seems on the northeastern ear of the nation, Portland is not particularly exceptional among the nation's 361 seaports. The ports of New York and New Jersey, Miami, Long Beach, Calif., and Los Angeles are much bigger and busier. Yet like most ports, the one here is near a population center and it is packed with bridges, power plants, and combustible and hazardous materials.

All that makes ports among the country's greatest points of vulnerability.

Even so, no national plan exists to thwart attacks against them, to respond if one happens or to organize a community afterward. No federal agency regulates seaports the way the Federal Aviation Administration manages airports. They are managed locally, often by the private businesses that use them. All are overseen by a patchwork of agencies, already stretched thin, some monitoring hundreds of ships a day.

Compared with the attention being given to airline security, security at the ports has gone largely unnoticed, even though they handle 95 percent of the cargo that enters from places other than Canada and Mexico. A bill to tighten port security has passed a Senate committee. The full Senate could vote on the bill within two weeks, but the debate has yet to begin in the House of Representatives.

"People in Congress don't have any idea it's a problem," said Senator Ernest F. Hollings, Democrat of South Carolina, who is chairman of the Commerce Committee and co-sponsor of the bill with Senator Bob Graham, Democrat of Florida. "I've got folks who don't have ports in their states. It's hard to get it in front of their heads."

Port officials are aware of various threats, like using a tanker or fuel-loaded cruise liner as a bomb, secreting weapons and explosives in containers, hijacking a ship and ramming it into a nuclear plant on the shores of a river or infesting a cargo of grain or seeds with a biological weapon.

Given the potential dangers, the security measures in place are far from adequate.

"We're looking for needles in a haystack," said Dean Boyd, a spokesman for the United States Customs Service. "And the haystack has doubled." International trade has doubled since 1995 while the number of people to handle inspections has remained roughly constant, he said.

The Coast Guard patrols coasts and harbors but little of the land or the cargo. It checks out ships coming in from the open sea but has no way of thoroughly searching everything that comes by.

The Customs Service says it can inspect only 2 percent of the 600,000 cargo containers that enter seaports each day on more than 500 ships. Of the 2 percent, many are not inspected until they reach their final destina-

tion, sometimes on the opposite coast, where they travel unguarded by rail, barge and truck.

Last year, a government commission on crime and security at seaports found similar weaknesses. The commission surveyed 12 major ports including those of New York and New Jersey, Miami, Los Angeles, New Orleans and Charleston.

While withholding their identities for security reasons, the report found that only three of the ports tightly controlled access from the land and that access from the water was completely unprotected at nine of them.

The report also emphasized the hazards posed by materials unloaded from ships. "The influx of goods through U.S. ports provides a venue for the introduction of a host of transnational threats into the nation's infrastructure," the report said.

A tangled chain of authority further compromised security, the commission said, a point echoed by the authorities in Portland.

"No one's in charge," said Jeffrey W. Monroe, director of transportation for the city. "There's no central guidance."

And ports have a strong economic incentive to limit control. With the taxes that cruise ships, tankers and other businesses pay, ports are the lifeblood of their communities. Port authorities' principal constituencies are private industry and economic development offices, whose mission is growth, not security. "They win if they move more cargo," Senator Hollings said.

In Portland, the seaport has been a boon, generating millions of dollars a year in revenues. Mr. Monroe said that in the past year the bulk cargo business grew 10 percent, passenger traffic and oil imports both rose by 20 percent. But the stalling economy and now the cost of heightened security have wiped out nearly all that the seaport and airport contribute to the city budget.

In Congress, the Hollings-Graham legislation would help cities meet some of the cost of securing their ports. It would give the Coast Guard regulatory control over ports, require background checks of waterfront workers and provide for 1,500 new Customs agents.

Before the September attacks, the seaport industry's principal lobby, the American Association of Port Authorities, fought the legislation, arguing that it would impose one-size-fits-all security systems for all seaports.

Though the group now supports many provisions of the bill, it still has questions over the matter of who controls security. Meanwhile, ports have taken their own steps to improve security. In Florida, Gov. Jeb Bush announced he would deploy the National Guard to oversee four of the state's busiest ports. In California, Gov. Gray Davis tightened security around bridges.

In Portland, officials and businesses have taken similar steps. Minutes before the drawbridge opens for a tanker, police officers arrive to monitor both sides of the bridge. Fences are being repaired and installed.

At the city's International Marine Terminal, where from May to October the Scotia Prince carries 170,000 passengers on 11-hour cruises between Portland and Yarmouth, Nova Scotia, visitors used to roam freely around the pier. Now only passengers are allowed there, and then only after they and their baggage are cleared by metal detectors and bomb dogs. The pilings below the pier are now illuminated at night.

For its part, the Coast Guard now focuses primarily on harbor security. It requires vessels weighing more than 300 tons to notify the port 96 hours before arrival. The big ships also must fax crew lists, said Lt. Cmdr. Wyman W. Briggs, executive officer of the guard's facilities in Portland. The crews of fishing boats must carry picture ID's.

For all this, much tighter seaport security may prove impossible. Seaports cannot be secured like airport, said Brian Nutter, administrator for the Maine Port Authority in Augusta. "You can't fence off the whole state of Maine," Mr. Nutter said.

Mr. GRAHAM. I think what we need to do is, yes, we need to pass the Seaport Protection Act and others. But our mentality needs to be one of anticipation and prevention, not one of waiting to be hit and then respond. The adoption of the Seaport Protection Act would be an example that we have not lapsed into a defensive mode but that we are on the offensive; that we are preparing to protect the American people before they are subject to attack.

Mr. NELSON of Florida. If the Senator will yield, I only underscore the importance of his comments about the vulnerability of our deep-water seaports which are so often co-located with military facilities. As we look at the Port of Jacksonville, there are major military facilities; Pensacola, the same; Port Canaveral, right adjacent to the Cape Canaveral Air Force Test Station as well as the Trident submarine turning base.

As Senator GRAHAM has pointed out, we have a real risk. How do we go about determining what is in the container that might have started at Singapore, comes to the Port of Lisbon, is transferred around onto a different ship, and ultimately comes into one of our American ports?

On the reverse we have had quite a bit of success. Indeed, through a machine called a gamma ray machine which was set up initially to try to stop the smuggling and stealing—smuggling of stolen automobiles—the gamma ray machine takes an x-ray picture of the container without the harmful side effects of radiation from x-rays. You can see exactly what is in the container as the truck pulls up between two poles. The picture is there. The guard can check that against the manifest of what is supposed to be in the truck.

Lo and behold, on the east coast of Florida there are some four or five gamma ray machines now set up, and it has virtually stopped all of the smuggling of stolen automobiles going out of those ports.

If we can do that on the outbound cargo, clearly we have to figure out something for the inbound cargo because the vulnerability is there.

I appreciate so much the leadership of my senior Senator from Florida. It is a privilege for me to join with him and Senator HOLLINGS to try to enhance this legislation as it comes to the floor.

Mr. GRAHAM. Mr. President, if I could just conclude with, again, my appreciation for the very generous remarks of my friend and colleague, and also to relate what he has just said to the subject that is before us, which is the intelligence authorization bill.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Florida.

Mr. GRAHAM. The fact is, even with the sophisticated technology that our now-Presiding Officer just described, there is still a tremendous burden on intelligence.

I visited some time ago in the course of my interest in seaport security what is the largest port in the world at Rotterdam, which uses a very advanced level of technology. But they can only inspect a relatively small percentage of all the containers that come into that port. So they must depend upon intelligence information to allow them to identify which of those thousands of containers that are arriving every day at Rotterdam are the ones that are the most suspicious and, therefore, need to have this advanced technology applied.

While part of the Sea Port Security Act is going to give, hopefully as quickly as possible, to all of our ports significantly better technology, we are still going to be relying on intelligence to focus on which of those containers to which that technology would need to be applied. The legislation before us is a significant step in increasing our capability to provide that intelligence to seaports as well as to thousands of other American vulnerabilities.

Mr. ROCKEFELLER. Mr. President, I rise to support S. 1428, which is the intelligence authorization bill, and to congratulate particularly Senator BOB GRAHAM from the State of Florida for his excellent leadership on this whole matter.

We all know the work of the Intelligence Committee and the work of the intelligence community, more particularly, is incredibly important at all times and, obviously, after September 11, it has become a matter of national survival in many respects. So this is an extremely important bill and a very good one.

We rely on the people in the intelligence community in every way. We often do not think about it, although we have thought about it more in the last couple of months. They support the U.S. military actions in Afghanistan; they work with other countries to track down and arrest terrorists and disrupt all kinds of attacks which we may not hear about because they did not occur; they assist law enforcement agencies with the anthrax investigation; they follow the finances of terrorist organizations allowing the Department of the Treasury to freeze assets with accurate and proper information, and they are leading the hunt for the leaders of al-Qaida.

The intelligence community has surged its efforts to support this war, but it is also now obviously been called on for enormous amounts of new resources just to meet the day-to-day requirements they had before September 11.

We continue to collect and analyze counterproliferation, counternarcotics and international organized crime. We collect intelligence regarding our traditional state adversaries, such as North Korea and Cuba, and we keep a

very close eye on hot spots around the world, obviously including places such as the Middle East.

There are four priorities in the bill. They should remain our priorities. The first is we revitalize the National Security Agency. That was done.

We correct deficiencies in human intelligence. That is being addressed.

We address the imbalance between collection and analysis. We have talked about that for a long time.

We provide sufficient funding for research and development. All of those are addressed.

As I indicated, we need the resources not just now, but there will be probably more needs in the future. That is being done through the supplemental appropriations process, as it should be, but I just put our colleagues on notice this is going to be a continuing situation.

This is my first year on the Intelligence Committee. I have to say I am extraordinarily impressed by the diligence of the committee, by the people who are on it, including the Presiding Officer, and the vigor and emphasis which they bring to their work. It is a committee that not a lot of people know a great deal about, but it does very important work.

I urge my colleagues to support this bill. I thank the Presiding Officer, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in strong support of Senator GRAHAM's bill authorizing appropriations for intelligence for fiscal year 2002.

The Senate Select Committee on Intelligence, on which I serve, and which Senator GRAHAM chairs, is a unique expression of the vital role the United States plays in the critical field of national security. Much of our proceedings are, by necessity, secret, and our committee's business is often conducted behind closed doors. That said, I am proud of the fact that in this country the activities of the intelligence services, so important to national security, but potentially so dangerous to our precious civil liberties, are authorized by the people's representatives in Congress.

The bill before us today is the result of that process. Under the able leadership of Chairman GRAHAM and Vice Chairman SHELBY, the Intelligence Committee has delved deeply into the activities of our intelligence agencies, reviewing their operational efforts, their resource needs, and the legal and regulatory structure within which they operate. This bill was crafted in the light of that inquiry, and I believe represents a well-conceived and workable plan to support the critical intelligence needs of our country.

Many have said that, after the tragic events of September 11, "everything changed." That is not completely true, for an effective and well-supervised intelligence structure was essential to our national security before September 11, and remains so after the attacks. What did change, however, is the sense

of urgency, and the general understanding of the importance of intelligence, particularly in the area of terrorism. This bill addresses those needs, and I am certain will provide a framework which will allow the intelligence community to work towards protecting our Nation from those who would do it harm, whether rogue nations or sub-national terrorist groups.

The bill addresses some of the difficult issues that confronted the committee during the past year with balance and firmness.

It contains language that addresses the specific, and systemic, shortcomings which led to the tragedy last spring when a civilian airplane was accidentally shot down in the course of a CIA-sponsored counterdrug operation. It accomplishes this by requiring the President to certify that appropriate safety procedures are in place, adhered to, and that the program, should it continue, is necessary to our national security.

The bill contains language directing the Department of Justice to perform a thorough review of current law concerning the unauthorized disclosure of classified information. This will allow the administration to carefully address the pernicious problem of recurring unauthorized disclosures in a measured and thoughtful manner. Should it be necessary for the Congress to revisit this issue, our efforts will be assisted by the results of the Department of Justice review.

The bill, and its classified annex, authorizes funding appropriate to the extensive, and often expensive, responsibilities we have asked the intelligence community to carry out. There has been much said publicly about the size and scope of our intelligence budget, and there remains reasonable arguments on both sides as to whether the intelligence budget should remain classified. However, I want to take this opportunity to assure my colleagues, and all Americans, that the intelligence budget is not created in a shadowy vacuum, but in a process that allows the legislative branch meaningful insight into, and final authority on, the intelligence budget.

Finally, I look forward to working with my colleagues on the committee in performing the necessary follow-on to passage of this bill—the vigorous oversight of the operational and analytic efforts that will carry out the authorized direction contained in this bill.

The PRESIDING OFFICER. Without objection, the two reported committee amendments are agreed to.

The Senator from New Hampshire.

AMENDMENT NO. 2114

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2114.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for new procedures for the removal of alien terrorists and the protection of United States citizens from international terrorism)

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . ALIEN TERRORIST REMOVAL ACT OF 2001**

(a) **SHORT TITLE.**—This section may be cited as the “Alien Terrorist Removal Act of 2001”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) In 1993, international terrorists targeted and bombed the World Trade Center in New York City.

(2) In 1996, Congress enacted the Antiterrorism and Effective Death Penalty Act, which established the Alien Terrorist Removal Court for the purpose of removing alien terrorists from the United States based on classified information.

(3) On May 28, 1997, the Court adopted “Rules for the Alien Terrorist Removal Court of the United States” which was later amended on January 4, 1999.

(4) The Court is comprised of 5 United States District Judges who are designated by the Chief Justice of the United States to hear cases in which the United States seeks the removal of alien terrorists.

(5) On September 11, 2001, terrorists hijacked 4 civilian aircraft, crashing 2 of the aircraft into the towers of the World Trade Center in the New York City, and a third into the Pentagon outside Washington, D.C.

(6) Thousands of innocent Americans and citizens of other countries were killed or injured as a result of these attacks, including the passengers and crew of the 4 aircraft, workers in the World Trade center and in the Pentagon, rescue worker, and bystanders.

(7) These attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon.

(8) These attacks were by far the deadliest terrorist attacks ever launched against the United States and, by targeting symbols of America, clearly were intended to intimidate our Nation and weaken its resolve.

(9) As of September 11, 2001, the United States had not brought any cases before the Alien Terrorist Removal Court.

(10) The Court has never been used because the United States is required to submit for judicial approval an unclassified summary of the classified evidence against the alien. If too general, this summary will be disapproved by the Judge. If too specific, this summary will compromise the underlying classified information.

(11) The notice provisions of the Alien Terrorist Removal Court should be modified to remove the barrier to the Justice Department's effective use of the Court.

(c) **ALIEN TERRORIST REMOVAL HEARING.**—Section 504(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1534(e)(3)) is amended—

(1) by striking “(A) USE.—”.

(2) by striking “other than through reference to the summary provided pursuant to this paragraph”; and

(3) by striking subparagraphs (B) through (F).

(d) **REPORTS TO CONGRESS.**—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the At-

torney General shall submit a report to Congress on the utilization of the Alien Terrorist Removal Court for the purposes of removing alien terrorists from the United States through the use of classified information.

Mr. SMITH of New Hampshire. Mr. President, this amendment really has two very simple provisions. There exists now what is called an Alien Terrorist Removal Court which was set up to remove alien terrorists from our country. The problem is no one is using the court. The reason for that is we are required under the law to submit to the terrorists a summary of the intelligence we gathered on him and how we got it. Obviously, if the terrorist gets that information, then the people who provided that information are going to be killed or their lives will be at risk.

My amendment provides that an independent Federal judge would take a look at the information and decide that it could not be shared but that the person should be deported.

That is the first provision of my amendment.

The second one provides that every 6 months we get a report back from Justice on how the terrorist court is working, how often the court is being used, and so forth.

That is really all there is.

I want everyone to understand that the amendment is quite simple. We are trying to work out an agreement on both sides. So far, that has not occurred. In view of the fact that we still have not done that, I am going to ask for the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a significant second.

Mr. SMITH of New Hampshire. Mr. President, in the way of introduction, I applaud the efforts of our intelligence community to fight this war against terrorism. Under very difficult circumstances, they are doing an outstanding job. They have a tough assignment, not knowing from one day to the next where a terrorist may strike. We know there is a network of terrorists right now in America. There are a lot of brave people in the intelligence community who are working night and day to make sure the events of September 11 are never repeated. Of course, we can't make those guarantees. The best way to have a situation where we can see that it doesn't happen again is to provide the support the intelligence community needs to fight this war against terrorism.

My amendment under the intelligence authorization bill is a tremendous tool in that fight against terrorism and to see to it that aliens are deported—not U.S. citizens, but aliens who are in this country participating, if you can believe it, in these networks of terrorism. All we are asking for is that they be deported—sent back home.

That is what the amendment does. It will remove provisions from the Alien

Terrorist Removal Court that render the court ineffective and useless.

Let me repeat again that today under the Alien Terrorist Removal Court, if we gather information that an alien terrorist may be committing a crime, or is prepared to commit a crime, or is getting ready to do some terrorist act against the United States, that individual must have the intelligence summary presented to him, which could and many times does compromise the sources and methods of gathering intelligence.

My amendment would say that a judge would look at that summary, and that judge would say, yes, this would compromise their sources and methods. So we will deport the alien—not a U.S. citizen—based on the recommendation of the judge.

The second provision is that we get a report every 6 months on how often this court is being used. That will allow us to track the effectiveness of how this court is working. Right now it is not working at all. We have a court, and no one is using it because the intelligence community simply will not compromise their people, nor should they, nor their sources and methods.

In 1994, to provide a little history, I sponsored legislation to create this court. The legislation established specific procedures for the removal of alien terrorists without disclosing sensitive intelligence data and also protected those sources and methods. I didn't get anywhere with it in 1994. In 1996, I succeeded in getting a version of this legislation added to the Antiterrorism Act. That bill became law. The court was established.

The intent was to set up a Federal court that specialized in the identification and expulsion of aliens who are terrorists from the territories of the United States. But my idea never became reality. We created the court, and nobody used the court because of this business about the summary having to be provided under the law. We need to go to the next level beyond the court. We created the court. Now let's allow the court to work and allow the intelligence community to do what it has to do to get these people deported.

The Alien Terrorist Removal Court is staffed with judges and is empowered to prosecute alien terrorists. As you well know, since that 1996 law was passed there have been zero prosecutions.

It is hard to believe, especially today, that this mechanism to fight terrorism has yet to be utilized by the Federal Government to prosecute even one alien terrorist. That is the part that frustrates me. It is not a comment against the intelligence community. They are put in the position. They come in, and they say, we have this information that this person or that person is going to do something. They are damned if they do and damned if they don't because if they provide the information, they compromise their own

sources and methods. If they don't provide it, we can't deport them. So they stay.

I believe there are some aliens we have been able to deport. Perhaps—who knows. We will never know—some of the ones who committed that heinous act on September 11.

But there are legitimate reasons the court has not prosecuted any cases. Some of the reasons are from weakening amendments that were made prior to the bill becoming law, which also was disturbing. But I don't want to go back and criticize. Hindsight is cheap, and armchair-Monday-morning quarterbacking is not what I want to do. I don't want to go back and complain to any Senator or to any Congressman about weakening legislation. But we are in a different world now. The world has changed. September 11 changed us forever. We need to respond to that change and be willing to take a new look, a fresh look at this.

I am not casting stones at anybody. If we could all predict the future, we would probably all be doing something other than what we are doing. So I want to make it very clear, this is not about criticizing anybody's position in the past or criticizing the intelligence community at all.

But the most glaring shortfall of the court is that too many procedural protections are given to the accused alien at the expense of the rest of us. These are not U.S. citizens. I make that clear.

I have been informed that the notice requirements and other procedural obstacles that force the Federal Government to disclose classified information just basically renders the court useless. The court can be a very effective tool in our antiterrorism program, including everything we have been talking about, not only in this bill but in the other legislation that we just passed in the antiterrorism bill. We can make it so much more effective with this kind of support.

Case in point: I wrote a letter to Attorney General Ashcroft on September 17, which, of course, was right after the terrorist attacks, and informed him of this whole issue of the Alien Terrorist Removal Court and what was needed.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC, September 17, 2001.  
Hon. JOHN ASHCROFT,  
Attorney General,  
Washington, D.C. 20530.

DEAR JOHN: Please accept my heartfelt appreciation for the hard work that you and the rest of the Department are doing to hunt down the terrorists who have attacked our great nation. It is a sincere comfort to me, as I know it is for other Americans, to know that we have such a capable team in place to lead us through this trying time. My prayers are with you.

In 1994, I sponsored legislation to create an Alien Terrorist Removal Court. This legisla-

tion established specific procedures for the removal of alien terrorists without disclosing sensitive intelligence data to the terrorist and his organization. In 1996, I succeeded in getting a version of this legislation added to the Antiterrorism and Effective Death Penalty Act (8 U.S.C. 1531-1537). That bill became law and the court was established. My intent was to set up a Federal court to specialize in the identification and expulsion of alien terrorists from the territory of the United States. Unfortunately, my idea never became a reality.

The Alien Terrorist Removal Court is staffed with judges and is empowered to prosecute alien terrorists. As you well know, however, in the years since that 1996 law was passed, there have been zero prosecutions by the court. It is hard to believe, especially today, that this mechanism to fight terrorism has yet to be utilized by the Federal government to prosecute one alien terrorist.

There are legitimate reasons why this court has never prosecuted one case—many resulting from weakening amendments that were made prior to the bill becoming law. The most glaring shortfall of the court is that too many rights are given to the accused alien terrorist. I have been informed that the notice requirements and other procedural obstacles that force the Federal government to disclose classified information render this court useless. I believe this Court can be an effective tool in our terrorism program, and I want to work with you to remedy any problems with the law, and begin using the Court to rid our nation of terrorists.

I would appreciate your suggestions for improvements that would make this court an effective instrument in the fight against terrorism. Again, John, thank you for all of your exemplary work on this issue and I look forward to working with you.

Sincerely,

BOB SMITH.

Mr. SMITH of New Hampshire. Subsequent to that letter, I had a conversation with the Attorney General. The Attorney General is supportive of this provision because it will help them to do their work.

Republican Leader LOTT and I had a colloquy in this Chamber during a recent debate on antiterrorism. We had a conversation in which he agreed with me and supported my provision.

Mr. President, I ask unanimous consent that colloquy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congressional Record, Oct. 11,  
2001]

#### ALIEN TERRORIST REMOVAL COURT

Mr. SMITH of New Hampshire. Mr. President, it had been my intention to offer an amendment which would strengthen provisions in the bill to deal with known terrorist aliens. As Senator LOTT well remembers, we worked in 1996, created the Alien Terrorist Removal Court, to hear cases against aliens who were known terrorists and to allow the Justice Department to deport these aliens without divulging classified information to the terrorist organization.

Mr. LOTT. I know the Senator from New Hampshire has been working a long time on this issue. In fact, when he sponsored this legislation back in

1995, I was a cosponsor of his bill. He has been a leader on this issue, he passed his legislation, and the Court was created.

Mr. SMITH of New Hampshire. That is correct. As the leader knows, there are some changes that are needed to improve the law, which is what my amendment was going to be about.

Mr. LOTT. I understand, and I agree that the law needs to be strengthened.

Mr. SMITH of New Hampshire. Mr. President, I would say to my colleagues, all the tools we are giving to the Justice Department in this bill are irrelevant if we cannot deport these terrorist who are living in our country preparing to terrorize American citizens. Page 162 of the bill says the Attorney General shall place an alien in removal proceedings within 7 days of catching him, or charge him with a criminal act, or else the bill says "the Attorney General shall release the alien." Mr. President, the problem is that most of these terrorist have not committed criminal acts until they are ready to attack. Therefore, in most of these cases, the only option is to deport them.

Mr. LOTT. It is my opinion, that if we can deport known terrorist, we should do it. We cannot let the Justice Department be barred because the evidence was too sensitive to use in Court.

Mr. SMITH of New Hampshire. That is exactly the problem. Under current law, the Justice Department would have to give a declassified summary of all the secret evidence used in the deportation proceedings to the terrorist. Now, why would we compromise our intelligence sources and methods by revealing sensitive intelligence information to a known terrorist? The intelligence community would never allow it, and with good reason. But as a result, the Justice Department has never once used the alien terrorist removal court to deport anyone.

Mr. LOTT. That is my understanding, and it is a serious problem. I am in complete agreement with the Senator.

Mr. SMITH of New Hampshire. Mr. President, I thank the Leader. As I said, it had been my intention to offer an amendment to resolve this problem by eliminating the requirement for the Attorney General to give this sensitive information to the alien terrorist before deporting him. However, upon discussions with the Attorney General, who indicated to me that he supports this provision, and after discussions with the Leader, I have decided in the interest of moving this legislation to withhold my amendment at this time, with the assurance of the Leader and the Administration that we will work to solve this problem in conference.

Mr. LOTT. Let me say to the Senator that he can count me as a cosponsor of this amendment. It is an excellent amendment, it is needed, and I commit to the Senator that I will do my best to see that it is added in conference. I would further say to the Senator that I have also talked about this issue with

the Attorney General, and he indicated to me that the Administration supports your amendment and that he will also work to support it in conference when we get to that point. So, I appreciate his withholding at this time so we can get this bill to conference where we can work to get the Smith amendment added to greatly improve this bill.

Mr. SMITH of New Hampshire. I thank the Leader for his strong support, and I am pleased that the administration is also supportive. I know how many long hours the Attorney General is putting in on this issue, and how committed he is to winning this war on terrorism. I look forward to passing this important provision which will be an invaluable tool for the Attorney General and the President in this war.

Mr. SMITH of New Hampshire. This court was created in 1996, as I said, as part of the Antiterrorism and Effective Death Penalty Act. Since 1996, the Justice Department has used the court, as I said before, not once—not even one time—to deport any alien terrorist or suspected alien terrorist. Again, the reason is because they have to compromise their sources and methods to do it. They do not want to do that and I don't blame them. Therefore, the alien stays here, and we have to wait until he commits a crime before we can then arrest him or deport him, whatever the courts chose to do.

So, again, this amendment that I am offering strikes the provision of existing law that allows an alien terrorist to get access to a summary of classified information.

It is interesting because you will hear some critics of my amendment say: A summary is OK. We can take a summary and we can modify it, and we can take out sources and methods. We can do all these necessary things to make this good.

I submit to you, in some cases summaries are acceptable. We get them all the time. I know that the Senator from Florida, the chairman of the Intelligence Committee, gets them. We see summaries. Sometimes you can take a summary and get enough information. Oftentimes, Senators look at summaries of intelligence. We do not see the raw intelligence and that is fine.

But in this case, it is not fine because, let's say, for example—and this is a totally fictitious example—there is a conversation taking place between four people, and one of those people is a U.S. intelligence agent, and the three others are in a terrorist network. If we reference any of that conversation, even in a summary, the others are going to know that one of the four is a U.S. agent. If they know that, then a bin Laden might wipe everybody out just to be sure we get the suspect here. So it does risk our intelligence personnel, and we cannot afford that.

So my intent is to prevent the so-called "sleeper cell" of alien terrorists from committing an act of terrorism. A "sleeper cell" means they are out

there; they have not committed an act yet, but we know who they are. Why not deport them. These are not U.S. citizens. We are not taking away their rights. We are taking away their visas. They are guests in our country. They have visas.

Those terrorists who committed those crimes were guests in our country, if you can believe that. They were guests. So why can't we take their visas and send them back to some other place where, if they want to commit it wherever they came from, fine, but keep them out of here. That is what we need to do. Let the other countries they came from take care of them and stop them, but don't let them come in here with their visas and do these kinds of horrible things. That is what I am trying to do, get at this sleeper cell, the network out there. Frankly, we are spying on them. Of course we are. And it is the right thing to do. But they are aliens. We do it with good reason—because we have specific information from our intelligence community.

The intelligence community gets this, and they cannot act on it because to act on it would compromise their own people and their methods of collection. To not act on it means they stay here. So that is where we are. That is why not one case has been brought to court since my legislation created it in 1996.

Who are these sleeper cells? We have seen a lot of them. These are guys that took flying lessons in Florida, who seemed to be reputable people, with families, just going about their business. They could be a student here on a visa. They could be here on a work visa. And they are very careful; they do not break any laws. They do not want to bring any attention to themselves. They do not get speeding tickets or rob banks or commit murders. They stay nice and cool and stay out of trouble. They are good. They keep their hands clean. Then they focus on the horrible act of terrorism, as we saw on September 11.

These are smart people. They know what they are doing. And we have smart people who know how to catch them. But we have to give the intelligence community the tools to do that.

So how does the Government prosecute an alien who is planning an act of terrorism—an alien who has committed no criminal act, nor has that alien violated his or her visa? How do we get them? Again, with the Alien Terrorist Removal Court. They have good Federal judges. Our court has one judge. If somebody wants to make that two or three judges, I do not object to that. I trust that the Federal judge can look at that intelligence and say: Whoops, wait a minute, we cannot provide that. We have to get this guy out of Dodge, get him out of here.

These sleeper cells are law-abiding. That is the interesting part. They are law-abiding. I want to make sure they

are not given access to any classified information at that hearing which is going to cause them to take the lives of those who have provided that information or somehow compromise the methods of collection.

I also want to make sure they do not get to do the terrible things that they are planning to do, as they did on September 11.

So my amendment provides for reports to Congress on the Justice Department's utilization of the court. If we can put a provision in there that says—I want my chairman to understand this because I know he may have a concern or two—if we can say to the court, report back to Congress and let us know how you are utilizing the court, if it is abused, we are going to know that. If we do not think the alien got the right decision from the judge, we are going to hear about that.

We are going to be able to monitor this every 6 months. If we can trust Federal judges to enforce our Federal laws in our country, we ought to be able to trust them to look at a piece of intelligence and decide whether somebody should be removed or not without sharing that intelligence. So I am hopeful we can get this done.

Let me address the issue of due process because this always comes up. I have been criticized for being somebody who wants to take the civil liberties from every American. I am not trying to take anybody's rights. I am trying to take their visas before they take our lives. Is there anything wrong with that?

Let me repeat that because it is very important. I am not taking away anybody's due process. I am not taking away their rights. I am taking their visas. They are guests in our country. They have been law-abiding people who have not committed a crime but are plotting one—as we saw on September 11, a big crime, a massive crime, a horrible, detestable act against innocent Americans.

If we had a court—and we don't know that we would have gotten those people—that had the ability, maybe we would have broken up that network. I am not saying we would have or could have, but we might have. That is really the issue: Are there any more plans such as this? Who can we monitor? How many people are out there who we are watching right now that we would like to deport but cannot deport without compromising those methods?

I think this passes constitutional muster. There will be some who will differ. That is the beauty of the Senate. We have people who differ on everything. It is like two lawyers. They won't agree on everything. They always find something to disagree about. I respect that, but I believe it passes constitutional muster. I believe others do as well and who have said so.

Remember, we are talking about a civil and not a criminal matter. We are talking about aliens who have no constitutional right to a quasi-criminal

proceeding to remove that alien if that alien is involved in terrorism. That is important to understand. We are not talking about U.S. citizens. That is another issue. That is another venue, another court, another methodology. That does not apply. Both the fifth and fourteenth amendments prohibit Government actions which would deprive "any person of life, liberty or property without due process of law." The Alien Terrorist Removal Court has the necessary procedural safeguards to protect an alien terrorist's due process rights.

If life, liberty, or property is at stake, the individual has a right to a fair procedure. Again, this is not about his life. This is not about his liberty. This is not about his property. It is about his visa.

The interesting irony is that—and I hesitate to use the term "law-abiding citizens"—but these horrible people who did these things on September 11, at the time, were law-abiding citizens. They were very careful to keep their noses clean in America until they did what they did. That is why we must deport them when we know they are involved in planning, plotting, thinking about plotting, or are involved in meetings that are plotting, or whatever, terrorist acts.

So this court has the necessary procedural safeguards to protect an alien's due process. And I am very confident about that.

Liberty is freedom of action by physically restraining an individual—deporting or imprisoning—or a denial of a right with special constitutional protection, such as freedom of speech.

From the case *Mathews v. Eldridge*, 1976, there is a procedural due process test. There are three factors: No. 1, private interest; No. 2, risk of deprivation of interest; and, No. 3, Government's interest.

The Government's interest in these cases is our interest. The Government has an interest in deporting terrorists who may commit these crimes because the Government's interest is to protect us. That is what we have a Government for, to protect us, and they cannot because they cannot use the tool that we have given them, which is the court. They cannot use it because they have to compromise their sources and methods to do it.

So the Alien Terrorist Removal Court does provide these protections. An alien terrorist gets the evidentiary hearing before a Federal judge. Even though he is an alien, he gets an evidentiary hearing. This hearing is afforded to the alien terrorist, and the judge is allowed to see all classified information—the judge, not the terrorist. This is under my amendment. But the way it is now, the terrorist gets to see the classified information. Can you believe that? That is true. But they do not see it because the intelligence community does not give it to them. Therefore, the terrorist stays in America, and we wait for the acts to be committed.

The Federal judge, not the alien terrorist, has access to view all the classified information, and he or she can make a determination on the merits of the Government's claim. The Government's interest in not disclosing highly classified and sensitive information is outweighed by the alien terrorist's right to see the evidence. Think about that. Let me repeat that: Under current law, the Government's interest in not disclosing highly classified and sensitive information is outweighed by the alien terrorist's right to see the evidence. That shouldn't be. It should be the other way around. The Government's interest should outweigh the terrorist's interest. It is the people's interest, not just the Government. It is the interest of 260 million American people.

When one balances the interest of the alien terrorist versus the interest of the Government to prevent the disclosure of sources and methods to terrorist cells, such as al-Qaeda, and to prevent the killing of human resources by these terrorist organizations, that is when this should kick in. It is the rights of the terrorist versus the rights of the Government and the people. Sometimes they clash. In the case of a person committing or persons wanting to commit a terrorist act, they have clashed. It is more important that we protect the information and err on the side of caution, that we don't cost more lives. That is what my amendment is about.

I have an article which I ask unanimous consent to print in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From U.S. News, Oct. 1, 2001]

#### FINGER-POINTING, FINGERPRINTS

THE HUNT FOR EVIDENCE AND, HARD ON ITS HEELS, CHARGES ABOUT WHO SCREWED UP

(By Edward T. Pound and Chitra Ragavan)

In the spring of 1996, Congress gave law enforcement officials a new and seemingly important tool to combat terrorism. It created the Alien Terrorist Removal Court, assigning the special federal court the task of deporting terrorists operating on American soil. After the World Trade Center bombing in 1993, and the growing suspicion that foot soldiers for Osama bin Laden were slipping into the United States, the establishment of the court seemed an eminently sensible thing to do.

But terrorists had nothing to worry about—because the court is a court in name only. In the five years since its creation, U.S. News has learned, the five-judge panel has never deported a single terrorist. For that matter, it has never even heard a case. The Justice Department, the agency principally responsible for monitoring terrorists' movements within the United States, has never filed an application with the court seeking to deport a terrorist.

Former Justice Department officials say the agency couldn't use the court because the law requires disclosure of sensitive information to terrorists—evidence, they say, that would compromise intelligence gathering and identify sources. But critics say the government's refusal to bring suspected terrorists before the special court is a glaring example of its inability to use its vast

counterterrorism resources effectively. In the past few years, Congress has authorized billions of dollars for new equipment and for thousands of personnel in law enforcement and intelligence agencies. This year alone Congress authorized \$10 billion before the attacks for counterterrorism efforts.

American law enforcement and intelligence agencies have scored several big wins against terrorists, jailing some and foiling the plots of others, Michael Cherkasky, a former New York state prosecutor who investigated terrorist activities, says federal agents have known for years that suicide bombers had changed their habits, living seemingly normal lives here, but says agents failed to understand the terrorists' deadly intentions.

Cherkasky cites the evidence introduced in a recent terrorist trial in New York—a training manual from bin Laden's al Qaeda terrorist network. "The al Qaeda manual says you have to act nonreligious," Cherkasky explains, "shave your beards, fit in as middle class."

But it wasn't just behavior, it was targets that went undetected. The government was caught flat-footed in several major terrorist attacks, current and former intelligence official say. Among them; the bombing of the USS Cole last year, the bombings of the two East African embassies in 1998, and the September 11 attacks on the World Trade Center and the Pentagon. A review of the government's efforts against international terrorism shows that they have been hobbled by bungled investigations and poor intelligence analysis—or, in some cases, no analysis at all of critical documents accumulated by investigators.

That disturbs several former senior Justice Department and FBI officials who were actively involved in counterterrorism investigations during their careers. They believe that U.S. intelligence agencies may have had sufficient information to prevent the deadly attacks on the World Trade Center and the Pentagon—if only they had understood what they had. John Martin, the former top national security prosecutor for the Justice Department, says the government eventually will get to the bottom of why intelligence and law enforcement agencies did not prevent the attack. And, he thinks, they will conclude that government agencies "were collecting the intelligence, they were deciphering it, but they were sending it to the field late and in muddled, ambiguous terms." Jamie Gorelick, the No. 2 Justice Department official in President Clinton's first term, sounds a similar theme. "We have a very robust intelligence collection effort," she says. "But we don't have a commensurate analytical capability. I am certain that when we are able to digest what we have collected, we will find information which surely could have or might have prevented" the attacks.

Red alert. That may be, and there's growing evidence that Washington should have been better prepared. There were warning signs, say former counterterrorism officials. Court files show that operatives linked to bin Laden or other militants have been planning for some time to make the United States their primary theater of operations. Now the FBI is finding that its failure to analyze the intelligence amassed during earlier investigations is slowing its efforts to locate conspirators or associates of the hijackers.

With many leads not producing much, U.S. law enforcement agencies are looking overseas for help. One big break came late last week when an Algerian pilot named Lotfi Raissi, 27, was arrested in London for allegedly lying on his application for a pilot's license in the United States. British authorities say they have linked him to four of the

hijackers. A prosecutor told a London court that Raissi's job was to ensure that the hijackers were "capable and trained."

The United States has the most sophisticated intelligence collection capability in the world, but it appears to have failed utterly in this instance. The supersecret National Security Agency intercepts phone calls and messages thousands of miles from its sprawling complex in suburban Maryland near Washington. Yet there has been no indication from U.S. officials that the NSA intercepted any information on the alleged hijackers who were operating in its shadow, just a few miles away, in the days before the attacks.

When the dust settles, Congress undoubtedly will examine what U.S. intelligence and law enforcement agencies knew before the hijackers produced their carnage. The Bush administration says it had no advance warning that the attacks would take place. But it is clear that the FBI and Justice Department had developed information on some of the hijackers before the attacks—just how much isn't known, and the government isn't saying.

Three former top intelligence officials say it is clear that some of the hijackers and possible associates were on FBI watch lists prior to the September 11 attacks. There seems to be little doubt of that. On August 23, the CIA sent the FBI the names of two suspected terrorists, Khalid Almihdhar and Nawaf Alhazmi. But the bureau was unable to apprehend them before they helped hijack the airliner that crashed into the Pentagon. FBI officials did not respond to several requests for interviews.

Officials say the CIA and FBI now are rushing to improve their intelligence capabilities. One intelligence source says the CIA is bringing back retirees to fill the massive demand for qualified help. Meanwhile, the FBI has put out the word that it badly needs people who can translate Arabic, Farsi, and Pashto. "They are scouting everywhere for translators," says a law enforcement involved in the government's massive manhunt. One reason: In the past, the bureau hasn't had sufficient personnel to translate and interpret critical documents, or vast amounts of intelligence, that could have shed light on terrorist plots. In some ways, the FBI must shoulder the blame. The bureau has very few Arab-American agents and translators, and funds intended for hiring translators were diverted to hiring more agents to fight street crime, several former Justice Department officials say. "The language problem is prodigious," says the intelligence source, "at both the CIA and the FBI."

That's true, too, at other intelligence agencies in the Defense Department, including the NSA. In a report issued last week, the House Intelligence Committee said American spy agencies "have all admitted they do not have the language talents . . . to fully and effectively accomplish their missions."

Surveillance. Apart from the language needs, Attorney General John Ashcroft now wants Congress—in addition to the \$20 billion more in counterterrorism funding it has committed since the attacks—to give law enforcement even more powers to wiretap immigrants and monitor their activities in the United States. At the same time, some lawmakers are pushing the government to use the Washington-based Alien Terrorist Removal Court, composed of sitting judges, to help rid the country of suspected terrorists. Sen. Bob Smith, a Republican from New Hampshire, is spearheading that effort.

Under the current law, a suspected terrorist brought before the court must be given an unclassified summary of the depor-

tation charges. Smith plans to introduce a provision this week that would allow the government to use classified information in the court proceeding without sharing any information with the suspect. The proposal is likely to spark a hot debate in Congress, where some members deplore the use of secret evidence and have been trying to outlaw the practice. Smith couldn't care less. "We need to bring these terrorists to court and deport them," he says. Smith persuaded Congress to approve the creation of the court in April 1996. But its powers were weakened, he adds, by amendments requiring suspected terrorists to be given a summary of the charges against them. As a result, the Justice Department never used the court, fearing that disclosure of intelligence would expose sources. Current officials would not comment for this story.

Civil libertarians say the department has found it easier to deport or imprison suspected terrorists through other administrative immigration proceedings. Secret evidence, which is anathema to Arab-Americans and civil rights activists, can be used in those proceedings when the government seeks to deport aliens on other grounds, such as "garden variety" immigration violations, says a former top immigration official. In the terrorist court, suspects would have more safeguards—the right to counsel and the option to challenge the constitutionality of the secret evidence, says Timothy Edgar, a top lawyer for the American Civil Liberties Union. No such rights are available in immigration court proceedings, he says. Given the choice, he says, the terrorist court is the least distasteful.

Immigration officials say that secret evidence is seldom used, perhaps only 10 to 12 times a year out of 300,000 cases in the immigration courts. Steven R. Valentine, a former Justice Department official who oversaw the Office of Immigration Litigation, says the government must deport or detain terrorist suspects—especially in light of the recent tragic attacks. In the past, he says, because of legal challenges, the Justice Department has been unable to deport known terrorists. "That," he adds, "is insane."

Mr. SMITH of New Hampshire. This was written by Ed Pound and Chitra Ragavan. It is a U.S. News article of a few weeks back.

In the article, which is entitled "Finger-pointing, fingerprints," Mr. Pound goes into a lot of detail and history about the fact that the court has not been used. I hope my colleagues will read it. It is a good history and a summation.

It is pretty simple. This provides that the court we now have created to remove alien terrorists can be used. That is what I am hoping.

I ask again for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAHAM. Mr. President, could the request be restated?

Mr. SMITH of New Hampshire. I asked for the yeas and nays.

The PRESIDING OFFICER. The Senator asked for the yeas and nays on his amendment. Is there a sufficient second?

At the moment, there is not a sufficient second.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that I be allowed to speak for about 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I have listened closely to some aspects of this debate, especially the amendment presently pending, raised by my distinguished colleague from my neighboring State of New Hampshire.

I had the honor of serving for 8 years on the Senate Intelligence Committee, where I was vice chairman. I have enormous regard for the current chairman and vice chairman of the committee. I have also served as both ranking member and chairman of the Judiciary Committee.

As I listened to the debate, something sounded familiar. Indeed, this amendment was raised during the debate in preparation of the antiterrorism bill that the Congress passed and the President signed last month. There was no enthusiasm for it from Republicans or Democrats. We looked at it, the White House looked at it, and the Justice Department looked at it. None of us were interested in including it in what became the USA Patriot Act.

The idea of having a quasi-secret court, and making only limited evidence available to the defendant, as is true under existing law, is constitutionally questionable enough. But to say that we will not tell the defendant any of the evidence against him in the court, as Senator SMITH proposes, is the kind of thing we rail against when other countries do it. Our government officials have gone all the way to the head of state level to register complaints when Americans have been held in other countries without being informed of the charges against them. Every President I have known has been forced at one time or another to raise such issues with another head of state. We should not make this task more difficult by approving of the amendment Senator SMITH has offered here.

Let us look at a little bit of history. The Alien Terrorist Removal Court was created in 1996. It was done largely through the efforts of Senators HATCH and Dole. It exists to provide a way for the Government to remove terrorist aliens whom it believes it cannot attempt to remove through public hearings, to balance the Government's need

to maintain its existing intelligence sources while giving some rights to the accused.

Under the law as it presently exists, the accused does not see the actual evidence against him but does receive an unclassified summary of that evidence. The law states very clearly that that unclassified summary has to be "sufficient to enable the alien to prepare a defense."

Under the amendment that Senator SMITH has presented, an alien accused of being a terrorist would receive no information about the basis of the charges against him, not even the limited summary provided in existing law.

If we were to pass something of this nature, there is no way the President of the United States or the Secretary of State or the Attorney General could go to any other country holding an American on undisclosed evidence and demand to see that evidence. That nation could simply say that it is doing what the United States, the country seen as the bulwark of freedom, is doing, the United States that has had a written Constitution that has survived for all these years. The U.S. Constitution, as written and interpreted over the last two centuries, makes it clear that the government cannot bring somebody into a court and say: "We have all this information against you, but we are not going to tell you what it is. Are you guilty of what we have against you? I am not going to tell you what it is we have against you, but I want to know, are you guilty or not? And, if you are not guilty, then defend yourself against these charges we have brought. Sorry, you can't see the charges. Sorry, you can't hear the evidence. Sorry, we can't let you know what is going on. But we will give you a chance to defend yourself."

It doesn't quite work that way. Anybody in this body who has been either a prosecutor or defense attorney, on either side, would not want that.

The distinguished Presiding Officer knows as well as any Senator here the terrible nature of September 11. Her State was impacted in a horrible way, as were the surrounding States of New Jersey and Connecticut, just as the State of Virginia has been horribly harmed by the attack on the Pentagon. Nobody has stated the horror, the anger, and the feelings left in the wake of the September 11 attacks in a more articulate way than the distinguished Presiding Officer. We all share those feelings. But nobody here has ever suggested that we somehow abandon all our laws, all our rules, our Constitution and everything we stand for, the very democracy that got the terrorists to attack us. In effect, we would say, "We surrender."

The Senator from New York, the Senator from Vermont, the Senator from Florida, all 100 of us—none of us is about to surrender. We understand there is a problem with terrorism. I suspect throughout my lifetime we will face threats. But let's answer the

threats in the ways that comport with what our constitutional history and our history as a nation.

The Alien Terrorist Removal Court has not been used, but that is not because an unclassified summary has to be provided to the defendant. The Justice Department talked to us about why the court is not being used, and did not mention this. When the Department was given the opportunity to consider this amendment at the time of the terrorism bill, it did not want it. I suspect that this lack of interest is related to concerns within the Justice Department about constitutional challenges to the court itself, as it is formulated under existing law. Surely the Justice Department knows that if we approve this amendment those constitutional challenges will basically be irrefutable.

We provide substantial new powers to the Justice Department with regard to terrorist aliens through the antiterrorism legislation we just passed, legislation I voted for, the distinguished senior Senator from Florida voted for, his colleague, the other Senator from Florida voted for; the distinguished Presiding Officer voted for it—98 of us voted for it. That legislation should make it easier for the Justice Department to use this court.

But as chairman of the Judiciary Committee, I could never support this amendment, which has already been rejected once by the administration and by Republicans and Democrats who negotiated the antiterrorism bill. I certainly could not accept it absent any showing of why it is needed.

I say to my friend from Florida, the distinguished chairman, that I have no problem calling upon the administration to notify the Judiciary Committee if it really believes a change in the law is needed. The administration did not believe this a couple of weeks ago. But if the Attorney General now believes he needs something such as this, I will be glad to hold hearings on the issue and bring his concerns forward. But to do something of such constitutional magnitude in an amendment on the floor, without any hearings in the Judiciary Committee or Intelligence Committee, is simply inappropriate.

Madam President, we need to go back to basic constitutional law 101 here. The idea of giving the government the ability to bring removal proceedings against someone and force him to defend himself without telling him of the evidence against him flies in the face of all of our principles.

We must not tell the rest of the world that the only way we can defend ourselves is to accuse somebody but not tell him what the evidence is against him. Back in the 1700s, we fought a revolution to ensure a much different principle. All of us share the terror of what happened. All of us are opposed to terrorists. All of us want to defend the United States. But we must not let our enthusiasm to defend our Nation lead us to do things that will hurt us further.

Frankly, I would be delighted to have the Attorney General take a look at Senator SMITH's amendment and see what he thinks. But I tell my friend from Florida that I certainly do not support this amendment, because the constitutional questions raised are of such enormous magnitude. To do so without any request from the administration and without any hearings would not be a responsible action for this body to take.

I yield the floor.

Mr. GRAHAM. Madam President, it is our hope that we will develop a second-degree amendment to this amendment which essentially would ask the Attorney General to review this legislation that has been part of our statute since 1996, which the Senator from New Hampshire has stated has not been effective, and to give us his assessment as to the effectiveness of this legislation, if he believes that changes are needed. They might be changes in the law. They might be changes in the resources that are devoted to carrying out this law or for any other impediments.

I note, as has the Senator from Vermont, that in the antiterrorism act which was just signed last Friday of October by President Bush, there are changes in the underlying definition of what constitutes an alien terrorist and an alien terrorist activity. Those changes have been stated to potentially have an effect on the efficacy of this 1996 act. That would be another subject on which we would ask the Attorney General's opinion.

We are today taking up a very major change in our law without the kind of prudent, thoughtful consideration for which the Senate is established to provide. I believe this process of requesting a review and then making the judgment based on the response to that request as to whether legislative, appropriations, or other activity is called for would be consistent with the history of this body.

Speaking of history, I point out that one of the first controversies which politically helped to establish that we would have a two-party system was called the Alien and Sedition Acts which was enacted in the late 1790s. I refer to the biography of John Adams. He was the President when the Alien and Sedition Acts was passed by the Congress. He had not supported the Alien and Sedition Acts, but he signed it into law as our second President and paid a very heavy price, including his defeat when he ran for reelection in 1800 with this being one of the major issues used against his reelection.

This is an issue of how to treat aliens in this country, which has a very long political history. It is an issue about Americans, whether they are citizens or any of the variety of categories that come under the generic term "alien." They might be defined as a permanent resident who has been in the country for decades, as well as a refugee who just recently arrived seeking protection against political persecution in

their home country. That whole wide range of people come under the generic term of "alien." How aliens should be treated has a long history in this country.

We are now participating in a debate on the most current topic of that. When it is available, I believe that our second-degree amendment, which will call for a temperate, thoughtful review of this by the highest legal officer in our executive branch, would be an appropriate manner for those of us who are privileged to serve in the Senate to proceed to determine whether, and if so, what changes in this law or the circumstances that surround this law, we should undertake.

Awaiting the completion of the drafting of that amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2115 TO AMENDMENT NO. 2114

Mr. GRAHAM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The amendment is in the nature of a second-degree amendment to the amendment of the Senator from New Hampshire.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Florida (Mr. GRAHAM), for himself and Mr. SHELBY, proposes an amendment numbered 2115 to amendment No. 2114.

Mr. GRAHAM. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "sec" and insert the following:

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding the following subsection after subsection (K):

"(L) No later than 3 months from the date of enactment of this Act, the Attorney General shall submit a report to Congress concerning the effect and efficacy of Alien Terrorist Removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past and the effect on the use of these proceedings after the enactment of the U.S.A. PATRIOT Act of 2001."

Mr. GRAHAM. Madam President, as I indicated in my preliminary remarks, this amendment calls upon the Attorney General, within 3 months of the enactment of this legislation, to report to the Congress on the 1996 Alien Act—that is the act that provides the procedure that the Senator from New Hampshire has outlined for the deportation of aliens—and within that report to indicate what recommendations the At-

torney General would make to the Congress relative to any changes in the law.

It draws particular attention to the fact that we have just enacted a major antiterrorism act, which contains modifications of the definition of "alien terrorists" which have in the past been cited as a reason why this 1996 statute has not been utilized.

I offer this amendment on behalf of myself and the vice chairman of the committee, Senator SHELBY, and ask for its immediate consideration. The Senator from New Hampshire has remarks he would like to make.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, I thank the chairman for his cooperation. I will not take more than a minute or two and will not ask for any recorded vote.

I also thank the chairman of the Judiciary Committee for making a commitment to me that we can have a hearing on this, if the Attorney General chooses to come and talk about the issue after the report comes back.

To summarize, the amendment I offered dealt with this terrorist removal court which is not being used because of the fact that it would compromise intelligence if we did use it.

I had hoped we could pass it to change that court, but given the fact that there is some information coming in on different views as to who believes what way about this and the issue as to how this court would or should work, I am prepared to and will accept the second-degree language offered by the Senator from Florida.

I hope we can get this done. It is a 3-month report. I am a little concerned about the length of time, but realizing it takes time to do a report, I am also worried about the fact that something else could happen. Given the circumstances, it is good that we now have the attention of not only the Senate and the Congress but also the Justice Department, and I hope we can hear from the intelligence community as well on this issue, which we will do in the hearings when we have them.

I thank my colleagues for their cooperation and look forward to passage of the amendment and yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 2115.

The amendment (No. 2115) was agreed to.

Mr. GRAHAM. Madam President, I ask now for a vote on the underlying Smith amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the Smith amendment No. 2114, as amended.

The amendment (No. 2114), as amended, was agreed to.

Mr. GRAHAM. Madam President, I move to reconsider the vote on the Smith amendment.

Mr. SMITH of New Hampshire. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2116

Mr. GRAHAM. Madam President, I am not aware of any other amendments to be offered to the bill. I have a managers' amendment I offer at this time.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Florida (Mr. GRAHAM) proposes an amendment numbered 2116.

The amendment is as follows:

Insert at the appropriate place in the bill:

The DCI shall provide, prior to conference, any technical modifications to existing legal authorities needed to facilitate Intelligence Community counterterrorism efforts.

Mr. GRAHAM. Madam President, the purpose of this amendment, which has been suggested by Senator KYL, is to assure that if, in light of the rapidly changing world in which we are living, there are other proposals that need to be considered during the course of the conference, the conference committee will have the liberty to do so. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2116) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Senator GRAHAM has mentioned there are no further amendments to the bill. I ask that the bill be read a third time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2883, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 2883 is stricken, the text of the Senate bill S. 1428, as amended, is inserted in lieu thereof, and the bill is deemed read the third time.

Mr. REID. I know the House bill has been read a third time. I ask for the yeas and nays on H.R. 2883, as amended.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. I further ask unanimous consent that the vote on passage of the

bill occur at 2 p.m. today, with rule XII, paragraph 4, being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Madam President, if the manager of the bill has nothing further, I ask unanimous consent that the Senate be in a period of morning business until 2 p.m. with Senators permitted to speak therein for a period of up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THERE IS A NEED FOR IMPROVED AIRLINE SECURITY

Mr. NELSON of Florida. Madam President, as we are locked in this deadlock with the House of Representatives over the question of airport passenger screening security, basically the deadlock is the Senate has passed a bill 100-0 that would provide for federalizing the screening process of passengers; that is, attaches to the Justice Department that these would be Federal employees who have specific training in law enforcement so we can heighten the feeling of confidence of the American flying public that they will be safe when they get in an airliner to take their travel.

Why is this important? It is obvious the airline industry is one of the important economic components of our national economic engine, and as long as people are scared to get into a plane and fly, then we are not going to rev up that economic engine and get it functioning on all cylinders as is so necessary.

There are parts of this country that are certainly more affected than others by the diminution of airline travel. Clearly, the city of New York, the State of the Presiding Officer, is drastically affected; clearly, cities in my State, such as Miami, or Orlando, the No. 1 tourist destination in the world. I have talked to the owners of hotels—not the business hotels; the business hotels are doing OK, not good but OK—and the tourist-oriented hotels now have an occupancy rate in the range of 40 to 45 percent.

I talked to the owner of one hotel with 800 rooms; they shut down 600 rooms. It does not take a rocket scientist to recognize with that diminished revenue they will not be able to pay mortgage payments, taxes. They have already laid off a significant portion of their staff.

We understand what happens as the ripples run through the economy. What do we do? We want to give a feeling of confidence, of safety, to the American flying public. What better way to do that than for the public to know, when they go through that passenger screening process, in fact, if there are people trying to do dastardly things to them by sneaking through implements of destruction, they will get caught.

The fact is, recently they have not been caught. We heard this rather astounding story a couple of days ago about in the Chicago area a person had two knives, got on the plane, and had in their carryon luggage other implements of destruction. This is several weeks now, after September 11.

We read the story last week about the fellow sitting on the airplane, in flight, horrified to suddenly realize someone had given him a pistol as a present, and he forgot it was in his carry-on luggage. He had the presence of mind to call over the flight attendant in the midst of the flight to say what happened. The fact is, airline passenger security had failed again.

Does this engender confidence in the American flying public? Of course, it doesn't. We are undercutting the very thing we need to be doing for those desperately needing the airlines back in robust business again—the hotel operators, the service personnel, the gift stores in the hotels, the restaurants, the tourist destinations, and the multiplicity of industries and businesses, both large and small, that spawn from this wonderful, robust transportation network we have had in the skies.

Why am I saying this? It took 4 weeks in the Senate to pass this bill because people in this Chamber were filibustering it because they wanted that passenger security screening operation to continue as it is, privately contracted out. That is not going to cut it. Yet we were held up 4 weeks. By the time it got around to the final passage, there was no Senator who was going to vote against it. It was 100-0 in this Chamber. Now we are at loggerheads with the House of Representatives, which by a very narrow margin of one or two votes passed a highly partisan bill that says it is still going to be contracted out. They say: Don't worry; we will federally oversee the contracting. But if the whole Nation's economy hinges on getting the public to believe it is safe to get back into an airliner and fly, are we not wasting precious minutes every day we are at loggerheads with the House of Representatives? We have a 100-0 vote here; they have virtually a split vote of 215 each. Why not look at what is best for the country?

How many more newspaper stories do we have to read, as we have in the last couple of days, about the stun guns, the knives, and the box cutters getting through security. How much more do we have to read before it convinces us and convinces the body at the other end of this United States Capitol that it is time to put aside their philosophical positions, their partisan positions, and pass something into law so we can restore the confidence of the American people.

I share these thoughts after considering this very important intelligence legislation, all of which is very necessary to the security of this country, as is the airline security bill important to the security of this country, both

economically and as we take on the terrorists.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EDWARDS). The clerk will call the roll. The senior assistant bill clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that the previous order entered setting the vote at 2 p.m. be modified to allow the vote to occur at 1:55 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business for about 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ENERGY POLICY

Mr. MURKOWSKI. Mr. President, I do not think there is any question about the condition of this country. We are clearly a nation at war. As we look at the instability, the uncertainty of regions of the world, regions where many of the nations that want to destroy Israel and the U.S. reside, the reality is these particular areas of the world are ones on which we are growing more dependent all the time.

It is no secret to the occupant of the chair that we are now 57 percent dependent on imported oil. However, during the 1970s, we were about 34 percent dependent on oil. Some remember the inconvenience of the gas lines around the block. This was at a time of conflict in the Mideast, the Yom Kippur War. Americans were outraged. They were indignant. How could it possibly happen in our Nation that we should be so inconvenienced?

So there we were, in the 1970s, 33 percent dependent; today we 57 percent dependent, and the Department of Energy indicates by the year 2010 we are going to be somewhere in the area of 66 percent dependent.

We are, in my opinion, held hostage by the same interests that seek to destroy and uproot Israel. Through our energy policies of dependence, we have

tipped the scales and given tremendous power to extremists in the Mideast. We are only making Iran, Iraq, and Libya, perhaps, stronger. Is that our wish?

What happens if the Kingdom of Saudi Arabia fails? There is almost a parallel occurring in that country between what happened in Iran 30 years ago with the fall of the Shah. When it occurred, the Shah was one of America's greatest allies. What happened was his regime came down as a consequence of corruption, a concentration of too much wealth in too few hands. That situation is very much evident in Saudi Arabia today.

I might add, if we look to bin Laden followers, a number of them have come from Saudi Arabia. As we examine the background of those responsible for the aircraft that went into the Pentagon and the Trade Centers, we find they have connections. Some are actually from Saudi Arabia.

Now, I am not condemning Saudi Arabia by any means. I am simply drawing a comparison. As our dependence on imported oil increases, we focus more on Saudi Arabia because that is where the significant supply of petroleum in the world exists. We are becoming more vulnerable as their regime becomes more unstable.

Furthermore, we are importing a million barrels of oil a day from Iraq. Now, what is the uniqueness of Iraq? We happen to enforce a no-fly zone over Iraq. We are putting our men's and women's lives at stake to ensure that Iraq stays within the constraints of the U.N. sanctions. Yet we know they have moved beyond those constraints, that they are selling oil outside the U.N. oversight, illegally in that sense.

So here we are, we are taking their oil and we are enforcing a no-fly zone over Iraq. We put the oil in our aircraft and then we go and enforce that no-fly zone by taking out some of their targets. We almost had one of our interceptor aircraft shot down a few weeks ago. What does Saddam Hussein do with the money? He pays his Republican Guards to keep him alive and develops missile capability with biological warheads aimed at our ally, Israel.

Is this part of our foreign policy or is it because we have no other choice than to depend on Iraq for a certain amount of our imported oil? I am not suggesting we might funnel some of the money for terrorist attacks to keep Saddam Hussein in charge, but one has to wonder what his future holds. We must address this dependence with a new sense of urgency, a new sense of purpose. To ensure our energy security, we must put in place solutions that begin and end at home. In my opinion, the sooner the better.

There are tremendous resources and ingenuity in this country. Our balanced, bipartisan energy plan puts them to work. It adjusts fuel economy standards; encourages conservation, provides incentives for the development of advanced newer, cleaner alternative fuels, and encourages the use of our own energy supplies.

I know the occupant of the chair would be disappointed if I didn't bring up the issue of ANWR and what kind of a contribution this can make. Clearly, we can open this area safely, effectively, and quickly. What does it hold? Somewhere between 5.6 and 16 billion barrels—enough oil to replace what we would import from Saudi Arabia in a 30-year period of time. All the economic benefits are there. When I say "employment," perhaps 200,000 jobs.

There is the potential of revenue to the Federal Government from lease sales amounting to about \$2.6 billion. This is a stimulus. It would not cost the Federal Government one red cent.

Our President has said energy is one of our two key components to a strong stimulus package necessary to get this economy growing again, somewhat like the old Lee Iacocca ad. If you can find a better economic stimulus that adds jobs to our economy, billions to our gross national product, and will not cost the taxpayer one red cent, go buy it.

The problem is reluctance in this body. The House has done its job and passed H.R. 4. The Democratic leader has not seen fit to bring this bill or schedule this bill before this body. Apparently, there is no indication from him as to his intentions. It appears he shut the door on the Energy Committee actions. I happen to be ranking member. We have not had markup on any bill or any action, with the exception of reporting out a nomination or two, for well over a month. The Democratic leader has basically shut down the Energy Committee and the process associated with the authorization which is the duty of the authorizing committees.

Evidently, the writing of the bill is underway, independently, with very little input, if any, from the other side. Republican interests will not be heard. We cannot share with our Democratic colleagues our input.

The President has said the Senate must act. As I indicated, the House has done its job. It is certainly not in the national interest to treat this issue for what it is, a critical component of national security. Our Achilles' heel in this war is our dependence on foreign oil. Bin Laden knows it; Saddam Hussein knows it. But the United States does not seem to know it is, to our immense discredit. How could we not know? Didn't we recognize on September 11 the significance that much of the terrorist activity is funded by oil? If we do not recognize it soon, God help us.

In my few remaining minutes I want to enlighten my colleagues on the significance of what has occurred over an extended period of time relative to public opinion on this matter. We have heard from our President on four occasions, specifically saying this country must have an energy plan that encourages conservation and encourages exploration.

He says: I want the Congress to know there is more to helping our economy

grow than tax relief. One of the major components is an energy plan.

He goes on to say on another occasion when the bill has passed the House of Representatives: They have done their job. He wants the Senate to do its job.

On October 17, he asked Congress to act on an energy bill the House of Representatives passed in August. On October 14, there are two other aspects to a good, strong stimulus package. One is an energy bill. October 31, our Nation needs an energy plan.

I don't know who is listening around here. I am certainly listening. It is unfortunate that the Democratic leader evidently is not listening to the President. I don't understand this political momentum. Why can't we do as the House and have an open discussion on the merits of this energy bill as proposed? Where is the energy bill? We introduced a bill in February, about 304 pages. The only thing on which anybody seemed to want to focus was the two or three pages of ANWR, opening up this area.

This has become a cash cow for the extreme environmental community. Make no mistake; they are milking it for all it is worth. It is an issue that is thousands of miles away from the American people. It is an issue filled with emotion. They say the polar bear is endangered, but they will not say you cannot take the polar bear—they are marine mammals—from the United States, and that includes from my State of Alaska. They are protected. You can go to Canada and take them for trophies, or go to Russia, but you cannot in the United States.

They say somehow the Gwich'in people, in their dependence on the caribou, are somehow in jeopardy. I will read for the RECORD from the Petroleum News: "Gwich'in, Ensign link up in new McKenzie Delta Drilling Company," September 30:

A new Native-controlled oil and gas drilling company has been formed to provide oil-field services in a land claims area of the Mackenzie Delta that is seen as a likely route for any Mackenzie Valley pipeline.

Gwich'in Oilfield Services, 51 percent owned by Gwich'in Development Corp. of Inuvik, Northwest Territories, and 49 percent by Calgary-based Ensign Drilling, is expecting to start operations this winter.

The Gwich'in settlement area covers 22,242 square miles and is governed by the Gwich'in Tribal Council.

Gwich'in Development Corp., wholly owned by the tribal council, has a mission to build an investment portfolio that offers business opportunities, employment and training to Gwich'in residents.

Tom Connors, chief executive officer of the corporation, said Sept. 10 that the deal with Ensign gives the community a chance to participate in the development of oil and gas resources.

Ensign president Selby Porter said his company's experience and equipment make it the right choice to work with the Gwich'in people.

The development of a local work force and infrastructure is key to the continued development of oil and gas resources of the Arctic region of Canada," he said.

Formation of the new company was announced Sept. 6.

About 80 percent of the Gwich'in people live in Canada. Why is it OK for the Gwich'in people in Canada to go ahead and develop their land and somehow the Gwich'ins who live in Alaska and are funded by the Sierra Club and various other environmental groups in opposition are opposed? Obviously, there is some skulduggery associated with this.

The other issue is relative to the base of support. We have seen the President's statements in favor of opening ANWR. Secretary of Interior Gale Norton, Secretary of Energy Spencer Abraham, Secretary of Labor Chao, and Secretary of Veterans Affairs Principi have all spoken at more than one event. Yet we have had press conferences with the American Legion, all the veterans organizations, including the Veterans of Foreign Wars. The AMVETS, Catholic War Veterans, and Vietnam veterans have all spoken in favor. It is interesting to hear their point of view. It is enlightening. They say they have fought wars on foreign soil. They have fought wars over oil in the Persian Gulf conflict where, obviously, we stopped Saddam Hussein from going into Kuwait, and his objective was to go into Saudi Arabia and take over the oil.

I am reminded of remarks made in this Chamber by Senator Mark Hatfield from Oregon. He indicated on more than one occasion he would vote for opening up ANWR any day rather than send other American men and women over on foreign soil to fight a war over oil.

This is the theme of America's veterans. They say the national security of this Nation is at risk because of our increased dependence on oil. What can we do about it? What we can do about it is increase domestic production. We are not going to relieve our dependence totally, but we will reduce it substantially.

The intent of the Senate, if it votes to authorize the opening of this area, is to send a message to the Mideast that we mean business about reducing our dependence. You are going to see a change in the OPEC structure, where they are going to be more sensitive to the significance of what the United States states when we say we are going to reduce our dependence on imports.

I suggest they are going to increase production. When they increase production, what does that mean? It means the price goes down. We know, as a consequence of terrorist activities, people are not flying, we do not have the same utilization of gasoline, and we have a temporary decline in price. But that is only temporary because what we saw OPEC do the other day was cut production another 1.5 million barrels. They know we are addicted to their oil. As a consequence, they are playing it for all it is worth.

As to organized labor, we have the Teamsters, maritime unions, seafarers

unions, operating engineers, plumbers, pipefitters, carpenters and joiners—I could go on with this list—because this is a jobs issue.

Mr. President, as you know very well, we have a very soft economy. We are in a recession. This is a jobs issue—several hundred thousand jobs in every State.

What are we going to do? We are going to build more ships. We will build them in U.S. yards because those ships that move Alaskan oil, under law, have to be U.S. flagged vessels, built in U.S. yards with U.S. crews. This is shipbuilding, gulf shipbuilding and west coast. It is a big jobs issue.

As we debate the stimulus package, I challenge any Member of this body to tell me a better stimulus than opening up ANWR. Why do I say that? Because it is a jobs issue. It is going to create a couple of hundred thousand jobs. It is going to create about \$2.6 billion in Federal lease sales when the Federal Government puts up those leases. Where will that go? Into the Treasury. It will help offset some of the costs associated with security and terrorism activities. And it is not going to cost the taxpayer one red cent. You tell me anything else in that stimulus package that fits that category. There isn't any. That is why organized labor is for it.

We have senior citizens; 60-Plus held a press conference the day before yesterday. The Hispanic community, the Latin-American Management Association and Latino coalition, the United States-Mexico Chamber of Commerce, they had a press conference this morning. American business groups: The National Association of Manufacturers, the U.S. Chamber of Commerce, National Black Chamber of Commerce, U.S. Pan Asian Chamber of Commerce, the American Women's Economic Development, the Alliance For Energy—it goes on and on and on.

Why is that message not coming through to this body? I can only assume there are several Members on the other side who do not want to vote on this issue. Why don't they want to vote on the issue? Perhaps they made commitments to extreme environmental groups. I don't know.

In any event, we are here at a stage where we are late in the session. The House has taken on its responsibility totally, passing H.R. 4. We have implored the Democratic leader to bring this matter up, let us vote on it, let us debate it, and let us offer amendments. We do not even get an answer.

I am putting this body on notice. If we do not get an answer from the Democratic leader—this is not a threat, this is a reality—we will put this on the stimulus bill and we will vote on it. I want everybody to understand there is going to be a vote on this floor, on this issue, on an energy bill that will contain ANWR, before we get out of here.

Some Members have threatened a filibuster. I cannot understand—while it

is everybody's right to do as they see fit—why anybody would consider filibustering an issue as important as this, in the national security interests of our Nation. I don't think we have ever had that, traditionally, in this body. We should address this issue on its merits, not proceed to activities associated with the threat of a filibuster.

I encourage Members to reflect a little bit about just what the folks back home will read into that kind of a vote. They will read the filibuster has been on a procedural motion, not on the merits of the issue. They will read it is in defiance of the veterans who have spoken time and time again, in defiance of the position of organized labor, in defiance of the position of our President.

I don't know whether there is an effort to ensure the President does not win on this issue. Is that what we are talking about? I hope that is not the case.

But to have this matter ignored, to have this matter taken away from the committee of jurisdiction by the Democratic leader at least warrants an explanation, and we cannot seem to get an explanation. The Democratic leader is a good friend of mine. We have had some conversations. He has been very responsive to hearing me out. But now it is time we had an opportunity to hear him out because he has simply ignored this. I want to tell the Democratic leader the pressure is going to become more intense. There is no reason this issue should not be addressed in an expeditious manner.

I noted in the Boston Herald an article. I ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Herald, Nov. 6, 2001]

#### ENERGY A SECURITY ISSUE

President Bush urged Congress to get an energy bill on his desk before it adjourns for the year, making the case that a sound energy policy is vital to national security.

Speaking to business leaders recently, the president observed, "It's in our national interest that we develop more energy supplies at home." And Interior Secretary Gale Norton added, "Every day the United States imports 700,000 barrels of oil from Saddam Hussein."

The House has passed an energy bill which would allow drilling in portions of Alaska's Arctic National Wildlife Refuge. But Senate Democrats have promised the environmental lobby that they will block ANWR development, and Massachusetts Sen. John Kerry has threatened to lead a filibuster.

That made little sense before Sept. 11, and even less since then. In the past 30 years, America has become dangerously dependent on foreign oil. It's estimated ANWR contains between 5.7 billion and 16 billion barrels of oil. Roughly 11 billion barrels would be the equivalent of 20 years of imports from Saudi Arabia. And only a miniscule part of ANWR's 19 million acres would be used.

America will never again be energy self-sufficient. But every barrel this nation doesn't have to import from the Middle East enhances national security. Planes and tanks don't run on recycled environmental cliches.

Mr. MURKOWSKI. The article it supports the opening of ANWR and suggests if there wasn't a reason before September 11, there is certainly an even better reason afterward. It mentioned Senator KERRY, who is opposed to this legislation. It indicates in general terms it should be supported because it is in the national interests of the country.

Lest there be any mistaken innuendoes, saying we don't need, really, to open up the ANWR area because there are other areas, that we can look to our friends in Canada—let's just reflect on what Prime Minister Jean Chretien said on November 6. He took a swing at the United States in an interesting way, over soft wood policies. He told the House of Commons:

If the Americans want free trade in oil and natural gas, they should also have free trade in lumber.

He further says:

If they were not to have oil and gas from Canada, then they will need wood to heat their homes.

This is the Prime Minister saying, in effect, don't just rely on an unlimited supply of resources from Canada, there has to be two-way trade.

I will close by outlining the significance of the economic stimulus associated with this single issue. The Department of Labor Massachusetts Survey indicates jobs, direct, 250,000; the Wharton Econometrics Institute at the University of Pennsylvania lists the total employment, indirect, at 735,000 jobs associated with the development of ANWR; jobs in 50 States, 80,000 in California, 48,000 in New York.

We do not make valves. We do not make pipe or welding rod. These things are all going to be made in the United States. Labor is going to come up. We are looking at 200,000 jobs at a minimum, direct.

Federal benefits of opening up ANWR will add up to \$3.2 billion. That is another estimate, in lease sales to the Federal Treasury, and if the oil is produced we are talking about billions more in royalties. It is estimated that ANWR oil has a potential value upwards of \$300 billion. That is from the Energy Information Administration. That is \$300 billion we do not have to spend overseas. That is \$300 billion that will travel through the economy, being taxed here in America. As I indicated, the Jones Act mandates the oil move in U.S.-flag vessels.

Nineteen new supertankers will be needed at a cost of about \$200 million. What will that do for American shipbuilding? Construction alone will generate 5,000 new jobs in American shipbuilding during the next 10 to 15 years.

Finally, each day we write a \$12 million check to the Iraqi Government for their oil. That is more than \$4.4 billion a year. I think it is time to put that money in our backyard instead of in the backyard and into pocket indirectly of Bin Laden.

I thank the Chair for his attention.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DISASTER VICTIMS RELIEF FUNDS

Mrs. CLINTON. Mr. President, one of the greatest comforts to me personally in the terrible aftermath of September 11 has been the immediate and overwhelming generosity of the American people in providing relief to the thousands who have been directly and indirectly affected. Our first priority must be to ensure that the victims and the families of the victims of the September 11 attack receive the financial relief they have been promised.

There is a tremendous amount of work going on in New York to ensure that families get their assistance. Many families have expressed their gratitude to me, to my staff, to FEMA, to the city, and the centralized support that was established at Pier 94. The fund that the mayor created to aid families, the Twin Towers Fund, has announced that it will get aid to families prior to Thanksgiving.

I am particularly grateful to the attorney general, Eliot Spitzer, who has led in trying to eliminate the bureaucratic redtape that can delay or prevent families from receiving the help they need in a timely manner. Working with the attorney general as he tries to create centralized databases of charitable organizations and families in need of services, I have joined him in calling for all charities to establish a uniform application that will help achieve the goal of simplifying the process of applying for necessary assistance.

I am sure many in this Chamber have seen the reports or perhaps seen on television some of the victims' family members who have been overwhelmed trying to work their way through the myriad of services available and who have to spend hours going from one place to the next until they could get some kind of answer, who say that not only have they be victimized but they have been made to feel like beggars. That is just unacceptable.

Like so many New Yorkers, we are concerned about those families who may not have the time to go stand in line and fill out endless application forms, who may not have the experience to permit them to navigate this maze, who do not have the stamina, and who, frankly, are still suffering.

I have met and talked with a number of people who lost loved ones, particularly widows who are having a very difficult time being able to do what is required to take care of their children and go about their daily business. They need help going through this charitable and governmental process.

Recently, the senior Senator from Massachusetts, Mr. KENNEDY, called to my attention the work he is doing in Massachusetts.

The PRESIDING OFFICER. The Senator is advised that we are under an order to vote at this time.

Mrs. CLINTON. Then we should vote, Mr. President.

#### INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 1:55 p.m. having arrived, the question is, Shall the bill, H.R. 2883, as amended, pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 332 Leg.]

#### YEAS—100

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

The bill (H.R. 2883), as amended, was passed, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 2883) entitled "An Act to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2002".

(b) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

## TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

### TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Judicial review under Foreign Narcotics Kingpin Designation Act.

Sec. 304. Modification of positions requiring consultation with Director of Central Intelligence in appointments.

Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.

Sec. 306. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.

Sec. 307. Review of protections against the unauthorized disclosure of classified information.

Sec. 308. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.

Sec. 309. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.

Sec. 310. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.

Sec. 311. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.

Sec. 312. Alien Terrorist Removal proceedings.

Sec. 313. Technical modifications.

### TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.

Sec. 402. Modifications of central services program.

### TITLE I—INTELLIGENCE ACTIVITIES

#### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The National Reconnaissance Office.
- (11) The National Imagery and Mapping Agency.

#### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2883 of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees

on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

#### SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

#### SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of \$238,496,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there are also authorized to be appropriated for the Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for pro-

curement purposes shall remain available until September 30, 2004.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

## TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of \$212,000,000.

### TITLE III—GENERAL PROVISIONS

#### SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

#### SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

#### SEC. 303. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106-120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

#### SEC. 304. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403-6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) The Director of the Office of Intelligence of the Department of Energy.

“(D) The Director of the Office of Counterintelligence of the Department of Energy”.

#### SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting “(a) IN GENERAL.—” before “To the extent”; and

(2) by adding at the end the following new subsections:

“(b) FORM AND CONTENTS OF CERTAIN REPORTS.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

“(1) A concise statement of any facts pertinent to such report.

“(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

“(c) STANDARDS AND PROCEDURES FOR CERTAIN REPORTS.—The Director of Central Intelligence, in consultation with the heads of the

departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).''.

**SEC. 306. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.**

(a) AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: "Upon making the determination, the Inspector General shall transmit to the Director notice of the determination, together with the complaint or information."; and

(2) in subparagraph (D)(i), by striking "does not transmit," and all that follows through "subparagraph (B)," and inserting "does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B)."

(b) AUTHORITIES OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: "Upon making the determination, the Inspector General shall transmit to the head of the establishment notice of the determination, together with the complaint or information."; and

(2) in subsection (d)(1), by striking "does not transmit," and all that follows through "subsection (b)," and inserting "does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b)."

**SEC. 307. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.**

(a) REQUIREMENT.—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers appropriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) PARTICULAR CONSIDERATIONS.—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) REPORT.—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following:

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

**SEC. 308. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING.**

(a) CERTIFICATION REQUIRED FOR IMMUNITY.—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2837; 22 U.S.C. 2291-4) is amended by striking "before the interdiction occurs, has determined" and inserting "has, during the 12-month period ending on the date of the interdiction, certified to Congress".

(b) ANNUAL REPORTS.—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ANNUAL REPORTS.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

"(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

"(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

"(C) A complete description of any assistance provided under subsection (b).

"(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

"(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex."

**SEC. 309. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

**SEC. 310. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.**

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Pres-

idential Decision Directive 75, dated December 28, 2000, entitled "U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century", including any modification of the Strategy or any such Assessment, shall be approved by the President, and shall be submitted to the appropriate committees of Congress.

**SEC. 311. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.**

(a) CONSULTATION IN PREPARATION.—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 312. ALIEN TERRORIST REMOVAL PROCEEDINGS.**

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding the following subsection after subsection (k)—

"(l) No later than 3 months from the date of enactment of this Act, the Attorney General shall submit a report to Congress concerning the effect and efficacy of Alien Terrorist Removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past, and the effect on the use of these proceedings after the enactment of the U.S.A. Patriot Act of 2001."

**SEC. 313. TECHNICAL MODIFICATIONS.**

The Director of Central Intelligence shall provide, prior to conference, any technical modifications to existing legal authorities needed to facilitate Intelligence Community counterterrorism efforts.

**TITLE IV—CENTRAL INTELLIGENCE AGENCY**

**SEC. 401. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.**

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) in subsection (f), by striking "September 30, 2002" and inserting "September 30, 2003"; and

(2) in subsection (i), by striking "or 2002" and inserting "2002, or 2003".

**SEC. 402. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.**

(a) ANNUAL AUDITS.—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking "December 31" and inserting "January 31"; and

(2) by striking "conduct" and inserting "complete".

(b) PERMANENT AUTHORITY.—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking "paragraph (3)" and inserting "paragraph (2)"; and

(4) in paragraph (2), as so redesignated, by striking "paragraph (2)" and inserting "paragraph (1)".

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent, as in executive session, that on Tuesday, November 13, at 2:15 p.m. the Senate proceed to executive session to consider Calendar No. 511, that the Senate vote immediately on confirmation of the nomination, that the President be immediately notified of the Senate's actions, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that request be modified—that the chairman and ranking member of the Judiciary Committee be given 15 minutes equally divided, and the vote occur at 2:30 rather than at 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, I have a question for the majority whip. I was told that it might be the intention to take up the Internet tax issue; is that correct or incorrect?

Mr. REID. That decision has not been made as yet.

Mr. MCCAIN. I have no objection.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

The Senator from Nevada.

#### EXECUTIVE SESSION

#### NOMINATION OF TERRY L. WOOTEN TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Terry Wooten to be U.S. District Judge, that the Senate vote immediately on his confirmation, that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise to express my strong support for the nomination of Terry Wooten to be a judge on the District Court for the District of South Carolina. I was pleased to recommend him to President Bush for this esteemed position.

Just hours ago, Judge Wooten was favorably reported to the floor by the Judiciary Committee in an 19-0 vote. The Committee's unanimous vote and the Senate's speed in considering him

today is a testament to his qualifications, character, and ability.

Judge Wooten has spent almost all of his professional life in public service. He has served ably and diligently as a U.S. Magistrate Judge since 1999. Prior to that, he worked as a federal prosecutor for seven years. In the U.S. Attorney's office, he served as the lead Task Force attorney for major drug and violent crime prosecutions.

Moreover, he was the Republican chief counsel on the Judiciary Committee while I was Ranking Member, and did an exceptional job in that capacity.

It is unfortunate that some allegations were raised during the committee's consideration of his nomination. However, once the investigation of this matter was complete, it was clear that there was no merit to them whatsoever.

During the Judiciary executive business meeting earlier today, Chairman LEAHY and Senator BIDEN, who was chairman of the committee at the time Judge Wooten was a staff member, both spoke favorably of his nomination. I appreciated their remarks. I was also very pleased that all members of the committee supported his candidacy.

Judge Wooten is a man of honesty and integrity, and this process has simply reaffirmed that fact. I am confident that he will make an excellent addition to the District Court.

Mr. HOLLINGS. Mr. President, I rise today to congratulate my fellow South Carolinian, Terry Wooten, who will be confirmed today to the U.S. District Court for South Carolina.

Terry Wooten graduated Phi Beta Kappa from the University of South Carolina in 1976 where he continued on to law school. Following law school, he worked in a private two-man firm that focused on criminal defense and personal injury cases. Two years later, he served as Assistant Solicitor for Richland County where he handled hundreds of cases including murders, criminal sexual conduct, robberies, drug offenses, burglaries, and many other local offenses for 4 years. As a result of his notable service as a local prosecutor, Senator THURMOND invited him to move to Washington and work as the chief counsel of the U.S. Senate Judiciary Committee minority staff for 5 years. He then served with distinction as Assistant U.S. Attorney for South Carolina for 7 years. In this challenging position, he was assigned to the major drug and violent crime section. Judge Wooten excelled in this role and also served as the chief liaison between the relevant Federal agencies and the U.S. Attorney's office on drug and violent crime cases in the state. He is well known and respected by all local law enforcement agencies for his hard work with violent crime and drug offenders. In 1999, this humble, yet very capable man was chosen to be a magistrate judge where he did a marvelous job.

Terry Wooten comes to the U.S. District Court for the District of South

Carolina judgeship with extensive experience as a State prosecutor in Richland County, as the Assistant U.S. Attorney, and as a Magistrate Judge. He was chosen for the position of Magistrate Judge by the judges of the Federal District Court for the District of South Carolina. I can think of no better testament to his character and qualifications and am pleased he will be joining their ranks. He will serve our judicial system well.

Mr. LEAHY. Mr. President, I congratulate the nominee and his family on his nomination and on what is soon to be his confirmation by the Senate and appointment by the President to the United States District Court for South Carolina. I thank all members of the Judiciary Committee for their attention to this nomination and thank the majority leader for his help in scheduling this vote.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. With the confirmation of Judge Wooten, we reach additional milestones. Judge Wooten is the 17th judicial nominee we have confirmed since July. That is more total judges this year than were confirmed in 1989, the first year of the first Bush administration, and as many as were confirmed in all of the 1996 session. Of course, in 1996, the Senate majority at that time did not proceed on a single nominee to a Court of Appeals and limited itself to confirming only 17 judges to the District Courts. We have this year already confirmed four nominees to the Courts of Appeals.

Thus, despite all the upheavals we have experienced this year with the shifts in chairmanship and, more importantly, the need to focus our attention on responsible action in the fight against international terrorism, we have matched or beaten the number of confirmations of judges during the first year of first Bush administration and the last year of the first Clinton term.

As a judge on the United States District Court, Judge Wooten will have a vital role to play in protecting and preserving our civil liberties in the days ahead. Our system of checks and balances requires that the judicial branch review the acts of the political branches.

Judge Wooten served as the Republican Chief Counsel of the Judiciary Committee when he worked for Senator THURMOND. Senator THURMOND has been an advocate for this nominee from the beginning. Earlier today the Judiciary Committee considered the Wooten nomination and voted without objection to report it to the Senate. Our bipartisanship in these matters was amply demonstrated by our moving as soon as possible in the wake of a serious allegation of wrongdoing to consider and report a former Republican staff member for the respected senior Republican in the Senate.

I held an expeditious hearing for Judge Wooten on August 27, during the

August recess of the Senate. On the morning of the hearing, we received serious allegations about him. These allegations raised questions about whether he had provided confidential materials to people outside the committee and the Senate with regard to the Clarence Thomas nomination. I asked Judge Wooten questions about the allegations and his actions, and he answered my questions.

Senator HATCH and I agreed that the best course of action would be to ask the FBI to investigate this situation fully. We had been awaiting the results of that investigation until just recently. Once members of the Judiciary Committee had a chance to review the FBI materials and all other materials surrounding this nomination, we brought it to a vote.

I believe that the allegations raised against Judge Wooten were serious and were worthy of inquiry. It appears to me from materials published in the aftermath of the confirmation battle that confidential committee materials were made available, contrary to our rules, to some outside the committee and the Senate. Having asked Judge Wooten about his involvement and having received his denials, I cannot say that there is a strong evidentiary basis on which to challenge his credibility or his denials with regard to his involvement in such matters.

I have taken Judge Wooten at his word and voted to report his nomination. This afternoon I will vote in favor of this nomination. This week we held our ninth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. We held our fifth hearing on judicial nominations since September 11. Overall we have held hearings on 28 judicial nominees, including seven to the Courts of Appeals. Since September 11 we have held hearings on 21 judicial nominees, including four to the Courts of Appeals.

Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the two judicial nominees who drove to Washington while interstate air travel was still disrupted. Then on October 4, 2001 we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in the wake of the receipt of a letter containing anthrax spores and Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

Two weeks ago, while the Senate Republicans were shutting down the Sen-

ate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees on October 25, 2001.

Yesterday we convened the fifth hearing for judicial nominees within eight extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. Yesterday's hearing was delayed by another unfortunate and unforeseen event when one of the family members of one of the nominees grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

In addition, during the time during which we held five hearings on judicial nominees, we devoted our attention and efforts to expedited consideration of anti-terrorism legislation. Far from taking a "time out" as some have suggested, this committee has been in overdrive since July and we redoubled our efforts after September 11, 2001.

With respect to law enforcement, I have noted that the Administration was quite slow in making U.S. Attorney nominations, although it had called for the resignations of U.S. Attorneys early in the year. Since we began receiving nominations just before the August recess, we have been able to report and the Senate has confirmed approximately 50 of these nominations. We have a few more with incomplete paperwork and we await approximately 35 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised. I have asked for the standards and criteria they are using, but, as far as I am aware, have not received the courtesy of a reply.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. Marshal positions. U.S. Marshals are often the top Federal law enforcement officer in their district. They are an important frontline component in homeland security efforts across the country. It now appears that we will end the year without a single nomination for these 94 critical law enforcement positions.

In the wake of the terrorist attacks on September 11, many of us have been disdaining partisanship to join together in a bipartisan effort in the best interests of the country. There were reports within 10 days of September 11 that some Republicans were disappointed because they would not be able to filibuster appropriations bills and contend that the Senate was treating Bush judicial nominees as badly as they had treated the Clinton nominees. Their initial disappointment apparently dissipated within days because

they did initiate a 3-week filibuster of the foreign operations appropriations bill. That is the bill that contains funding for our international antiterrorism coalition building activities as well as other essential military and humanitarian programs. Fortunately, cooler heads prevailed and that filibuster ultimately faded.

There have been other press accounts that some Republican operatives are trying to engage the White House and, even more unfortunately, the Department of Justice in a partisan effort to try to take political advantage of the aftermath of the September 11 attacks. Were those efforts to go forward, that would be disappointing. The bipartisan effort against terrorism is not something that Republicans should try to manipulate in such a way. Had the Senate moved more efficiently on nominations over the last 6 or 7 years, we would not have had so many vacancies perpetuated under their previous Senate majority. And finally, as the facts establish and as our actions today again demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees. We have proceeded on nominees with mixed ABA peer reviews, including an Arizona nominee who was included in the hearing just yesterday. As I have noted, we have already confirmed more District Court judges since July of this year than were confirmed in the entire first year of the first Bush administration. Had the administration not changed the confirmation process from the precedents that had served us for more than 50 years, we might have been able to confirm a few more.

The President has yet even to nominate to 46 District Court vacancies. I hope that he will work with the Senate to make sure those nominations will be consensus nominees and that they can be considered promptly. Because the White House was slow to name District Court nominees this year, the bulk of those who have not had hearings do not even have ABA peer review ratings. When this administration unilaterally changed the process from that followed by all prior Presidents beginning with Eisenhower, it backloaded the process. There are still nine nominees, received since September 10, who do not have ABA peer reviews.

Several others have received mixed reviews that require additional time and study. I have noted that at our most recent hearing we included a District Court nominee from Arizona with a review that includes a minority of the peer review declaring the candidate "not qualified" to be a District Court judge. In addition, there are at least two more with those mixed ratings and at least one District Court nominee with a "not qualified" rating. Those ratings caution against rushing people through the confirmation process.

With this confirmation today, the Senate will have confirmed another

five District Court judges just this week. We held a hearing for five more District Court nominees yesterday. We have an additional three District Court nominees who could be considered as soon as they finish their paperwork and answer questions about their criminal histories.

Thus, having confirmed 13 District Court judges in record time, we could confirm an additional eight with cooperation from the White House, nominees and our Republican colleagues.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Terry L. Wooten, of South Carolina, to be U.S. District Judge for the District of South Carolina.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Terry L. Wooten, of South Carolina, to be United States District Judge for the District of South Carolina? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. CLELAND) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 333 Ex.]

YEAS—98

Akaka	Durbin	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Torricelli
Dayton	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden
Dorgan	Lott	

NOT VOTING—2

Cleland Miller

The nomination was confirmed.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

### APPOINTMENT OF CONFEREES—

H.R. 2833

The PRESIDING OFFICER. With regard to H.R. 2833, under the previous order the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints Mr. GRAHAM of Florida, Mr. LEVIN, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, Ms. MIKULSKI, Mr. SHELBY, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. DEWINE, Mr. THOMPSON, Mr. LUGAR; from the Committee on Armed Services, Mr. REED and Mr. WARNER, conferees on the part of the Senate.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## FOOD SAFETY

Ms. COLLINS. Mr. President, earlier this week I introduced the Imported Food Safety Act of 2001. Food safety has long been a serious public health concern in America, but awareness of the vulnerability of our food supply has heightened since September 11.

I have long been concerned about the adequacy of our system for screening and ensuring the safety of imported food. In 1998, in my capacity of chairing the Permanent Subcommittee on Investigations, I began a 16-month investigation of the safety of imported foods. This investigation revealed much about the Government's flawed food safety net. Regrettably, in the intervening years little has changed, and now we must acknowledge that the systemic shortcomings can also be exploited by bioterrorists.

As part of the investigation, I asked the General Accounting Office to evaluate the Federal Government's efforts to ensure the safety of imported food. In its April 1998 report, the General Accounting Office concluded that "Federal efforts to ensure the safety of imported foods are inconsistent and unreliable." Just last month, the GAO reiterated that conclusion in testimony before the Subcommittee on Oversight of Government Management.

During the 5 days of subcommittee hearings that I chaired, we heard testimony from 29 witnesses, including scientists, industry and consumer groups, government officials, the General Accounting Office, and two individuals with firsthand knowledge of the seamier side of the imported food industry—a convicted customs broker and a convicted former FDA inspector.

Let me briefly recount some of the subcommittee's findings which make clear why the legislation I have introduced is so urgently needed.

First, weaknesses in the FDA's import controls—specifically, the ability of importers to control food shipments from the port to the point of distribution—make the system very vulnerable to fraud and deception, and clearly vulnerable to a concerted bioterrorist attack.

Second, the bonds required to be posted by importers who violate food safety laws are so low that they are simply considered by some unscrupulous importers to be a cost of doing business.

Third, maintaining the food safety net for imported food is an increasingly complicated and complex task, made more complicated by previously unknown food pathogens, such as Cyclospora, that are difficult to detect. Our recent experience with anthrax has taught us there is much that public health officials still need to know when dealing with such pathogens and bacteria.

Fourth, because some imported food can be contaminated by substances that cannot be detected by visual inspections, grant programs are needed to encourage the development of food safety monitoring devices and sensors that are capable of detecting chemical and biological contaminants.

Fifth, since contamination of imported food can occur at many different places from the farm to the table, the ability to trace outbreaks of foodborne illnesses back to the source of contamination requires more coordinated effort among Federal, State, and local agencies responsible for ensuring food safety, as well as improved education for health care providers so that they can better recognize and treat foodborne illnesses. Again, our recent experience with anthrax underscores the need for better coordination and education.

Since the terrorist attacks that occurred just weeks ago, we have been living in a changed world. We are battling enemies who show no regard for the value of human life, and whose twisted minds seek to destroy those who embody democracy and freedom. It has never been as important as it is now to ensure that our food supplies are adequately protected against contamination, both inadvertent and intentional.

President Bush and his administration are acting swiftly and decisively on all fronts. Among the responsibilities of the Office of Homeland Security is the protection of our livestock and agricultural systems from terrorist attack. The administration has requested additional funding to beef up security at our borders and to add more inspectors to evaluate the safety of food imports. And the Secretary of Health and Human Services, Tommy Thompson, has been working tirelessly to obtain the additional tools necessary to combat bioterrorism.

On October 17, 2001, Secretary Thompson appeared before the Senate's Governmental Affairs Committee, and testified about the Federal Government's efforts to ensure that the country is adequately prepared to respond to bioterrorist threats. He identified food safety and, in particular, imported foods, as vulnerable areas that require further strengthening. Similarly, at a recent hearing before the Health, Education, Labor, and Pensions Committee, every single public health expert who testified before us expressed concern about the vulnerability of our food supplies.

Weak import controls make our system all too easy to circumvent. After all, FDA only inspects fewer than 1 percent of all imported food shipments that arrive in our country. Those shipments are sent from countries around the world, most of whom wish us no harm. Yet, because of the hard lessons we have had to learn since September 11, we must be more vigilant about protecting ourselves. It is vital that we take the necessary steps to close the loopholes that unscrupulous shippers have used in the past and that bioterrorists could exploit now.

I first became concerned about the safety of the U.S. food supply in 1998 when I learned that fruit from Mexico and Guatemala was associated with three multi-state outbreaks of foodborne illnesses that sickened thousands of Americans. Regrettably, those type of outbreaks are far too common. The Centers for Disease Control and Prevention estimate that 76 million cases of foodborne illnesses occur each year. Fortunately, the majority of these incidents are mild and cause symptoms for only a day or two. Less fortunately, the CDC also estimates that over 325,000 hospitalizations and 5,000 deaths result from those 76 million cases. And as astonishingly high as those numbers are, they are estimates, and the truth may be even more deadly.

It was because of my concern that I began the subcommittee's investigation of the adequacy of our country's imported food safety system. The testimony I heard was troubling. The U.S. Customs Service told us of one particularly egregious case. It involved contaminated fish and illustrated the challenges facing federal regulators who are charged with ensuring the safety of our Nation's food supply.

In 1996, Federal inspectors along our border with Mexico opened a shipment of seafood destined for sales to restaurants in Los Angeles. The shipment was dangerously tainted with life-threatening contaminants, including botulism, *Salmonella*, and just plain filth. Much to the surprise of the inspectors, this shipment of frozen fish had been inspected before by Federal authorities. Alarming, in fact, it had arrived at our border 2 years before, and had been rejected by the FDA as unfit for consumption. Its importers then held this rotten shipment for 2 years before attempting to bring it into the country again, by a different route, and a different port in the hope of shipping this seafood through the inspection system.

The inspectors only narrowly prevented this poisoned fish from reaching American plates. And what happened to the importer who tried to sell this deadly food to American consumers? In effect, nothing. He was placed on probation and asked to perform 50 hours of community service.

I suppose, given how few shipments are inspected by FDA inspectors, we should count ourselves lucky that these perpetrators were caught at all since, as I mentioned earlier, fewer than 1 percent of all shipments of imported food under the jurisdiction of FDA are actually inspected. Unsafe food might have escaped detection and reached our tables. But it worries me that the importer essentially received a slap on the wrist. I believe that forfeiting the small amount of money currently required for the Customs' bond, which some importers now consider no more than a "cost of doing business," does little to deter unscrupulous importers from trying to slip tainted fish that is 2 years old past overworked Customs agents.

It is imperative that Congress provide our Federal agencies with the direction, resources, and authority necessary to protect our food supply from acts of bioterrorism and to keep unsafe, unsanitary food out of the United States.

I have worked with the FDA, the Customs Service, and the CDC to ensure that my legislation corrects many of the vulnerabilities that have been identified in our imported food safety system. Let me describe what this bill is designed to accomplish.

My legislation would fill the existing gaps in the food import system and provide the FDA with stronger authority to protect American consumers against tainted food imports. First and foremost, this bill gives the FDA the authority to stop such food from entering our country. My bill would authorize FDA to deny the entry of imported food that has caused repeated outbreaks of foodborne illnesses, presents a reasonable probability of causing serious adverse health consequences or is likely without systemic changes to cause disease again.

Second, this legislation would enable the FDA to require secure storage of

shipments offered by repeat offenders prior to their release into commerce. Unscrupulous shippers who have demonstrated a willingness to knowingly send tainted food to our country cannot be overlooked as potential sources of bioterrorist acts. My bill would also prohibit the practice of "port-shopping," and would require that boxes containing violative foods that have been refused entry into our country be clearly marked. This latter authority is currently used with success by the U.S. Department of Agriculture. My bill also would require the destruction of certain imported foods that cannot be adequately reconditioned to ensure safety.

What happens now is that when the food is ordered to be reexported and denied entrance into this country, it is not destroyed, even if it is completely unfit for human consumption and cannot be made safe.

Third, the legislation would direct the FDA to develop criteria for use by private laboratories to collect and analyze samples of food offered for import. This will help ensure the integrity of the testing process.

What happens now is that it is often the very same shipper who tried to slip the tainted food into our country who is responsible for taking it to a lab and getting it tested. Obviously, that is like putting the fox in charge of the hen house and offers very little protection to consumers.

Fourth, the legislation would give "teeth" to the current food import system by establishing two strong deterrents—the threats of higher bonds and of debarment—for unscrupulous importers who repeatedly violate U.S. law. No longer will the industry's "bad actors" be able to profit from endangering the health of American consumers. In other words, if the shipper is found to be repeatedly violating Federal laws regarding food safety, we could ban that shipper from importing anything into the United States. We will just kick them out of the business altogether.

Finally, my legislation would authorize the CDC to award grants to State and local public health agencies to strengthen the public health infrastructure by updating essential items, such as laboratory and electronic reporting equipment. Grants would also be available for universities, nonprofit corporations, and industrial partners to develop new and improved sensors and tests to detect pathogens, and for professional schools and societies to develop programs to increase the awareness of foodborne illness among health care providers and the general public.

We are truly fortunate that the American food supply is the safest in the world. But our system for safeguarding our citizens from imported food that has been tainted, either intentionally or inadvertently, is fundamentally flawed. We need to work together to correct this problem.

In that regard, I am pleased to report that I am working with my colleagues on bipartisan bioterrorism legislation that targets problems posed by bioterrorist threats to our Nation's food supply. I believe that the measures provided for in my Imported Food Safety Act of 2001, as well as the bipartisan bioterrorism bill we are drafting, will significantly reduce this potential threat to our country. It is my hope that parts of my bill will be incorporated into the comprehensive bioterrorism bill that we are working on now and that we will pass this year.

Mr. President, we need to take action now. We have identified a threat to our food supply. We know what we need to do to put in place the safeguards that are needed.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

---

UNANIMOUS CONSENT AGREE-  
MENT—H.R. 2620 CONFERENCE  
REPORT

Mr. REID. Mr. President, I ask unanimous consent that when the Senate considers the conference report to accompany H.R. 2620, the VA-HUD appropriations bill, that there be 45 minutes for debate with respect to the report, with the time equally divided and controlled among the chairperson and ranking member of the subcommittee and Senator MCCAIN or their designees; that upon the use or yielding back of all time, without further intervening action, the Senate proceed to vote on adoption of the conference report.

Mr. President, this would mean Senator MIKULSKI, Senator BOND, and Senator MCCAIN would each have 15 minutes if they choose to use that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

---

UNANIMOUS CONSENT REQUEST—  
S. 739

Mr. WELLSTONE. Mr. President, I see Senator MIKULSKI here; I assume Senator BOND will be here. I will just take but a moment.

For the fifth or sixth time in the last 2 weeks, I ask unanimous consent the Senate proceed to Calendar No. 191, S. 739, the Homeless Veterans Program Improvement Act; that the committee-reported substitute amendment be agreed to; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object, I know how committed the Senator is to this issue, and much of that issue I agree with. I hope sometime in the future we can deal with it. It is important, certainly to those who meet the standards and the qualifications which the Senator has proposed.

At this time I believe it necessary to object, and I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I have spoken about this before. The Senator from Idaho was objecting on behalf of someone else. He said: I hope this legislation passes soon because we all support this, or because it is important, something to that effect.

This legislation passed the veterans committee on a 21-0 vote. It is the kind of legislation you massage—LANE EVANS has done this in the House—so you get everybody agreeing. It is really important. I have gone through all the details before.

It is there in terms of making sure you have the job training, the services for people, and the health care for people struggling with addiction or struggling with posttraumatic stress syndrome, transition to other housing. It is really important to do.

Veterans Day is coming in just a few days.

My last point is that even though my colleague from Idaho says we all think it is a good thing to do, for 2 weeks I have come out here and I have asked: Who is the Senator who has an anonymous hold on this bill? If he or she opposes it, come out and debate it. This is no way to proceed. As a result, I have put a hold on every bill introduced by my colleagues from the other side, all of them that are unanimous consent and have a great deal of merit. I am not giving up any of my leverage.

It is unconscionable that this piece of legislation has been blocked through an anonymous hold. It is no way to say thanks to veterans. The veterans in the military say: We don't leave our wounded behind. We have a lot of wounded left behind on the streets of our country who are homeless.

If I got started on this issue, I could spend about 10 hours expressing my indignation at what has happened. Out of deference to Senator MIKULSKI, I will not.

Again, there aren't going to be any bills beyond appropriations and judi-

cial appointments that are going to go through until this bill goes through. This should be a priority.

I make a plea to my colleagues from the other side of the aisle, find out who it is, the Senator who is blocking this consideration. No one has ever even given me the slightest hint why. Let's get this work done.

---

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I submit a report of the committee of conference on the bill, H.R. 2620, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commission, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes, having met have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 6, 2001, at page H7787.)

Ms. MIKULSKI. Mr. President, it is with a great deal of pride that I bring this conference report to the Senate. I take this opportunity to thank my Republican colleague, the ranking member, Senator BOND of Missouri. This has been a year of tumultuous change in our country.

On Tuesday a year ago, we thought we had elected the President. It went on for 35 days—unprecedented. We were turned into a 50-50 Senate—again unprecedented.

Senator BOND chaired the committee in January and then, after Senator JEFFORDS' decision, the reins passed to me.

I say publicly, I thank Senator BOND for the graciousness in the way he transited the gavel and the chairmanship to me. He did it with graciousness and efficiency. His staff could not have been more cooperative or collegial. Because of that, our subcommittee didn't miss a beat, and we didn't miss a buck. We went to work on behalf of veterans, housing, the environment, investments in space, science, technology, as well as other agencies. I thank him for that.

I bring to the Senate's attention a summary of the bill. This act provides for a total of \$112.7 billion for all the programs within the bill, which is \$4.8 billion or 4 percent over the fiscal year

2001 level. This includes \$27.3 billion in mandatory funding, an increase of \$1.8 billion over the fiscal year 2001 level, and \$85.4 billion in discretionary spending, which is an increase of \$3 billion over last year.

What this bill essentially does is meet compelling human need. It meets compelling human need in terms of our veterans, in terms of the poor, meeting the day-to-day needs of the working poor. It helps rebuild our neighborhoods and communities. Through its funding for FEMA, it protects our homeland security. And it invests in science and technology through NASA and the National Science Foundation.

For our veterans, we have increased veterans health care by over \$1 billion from last year, bringing it to a total of \$21.3 billion. This would allow the VA healthcare system to serve 4 million patients through 2002. This conference agreement also provides the VA the ability to open 33 new outpatient clinics. It would also continue to allow research and treatment of chronic disease; diagnosis and treatment for Alzheimer's, Parkinson's; look at the issues again of special populations, such as stroke and spinal cord injury; and continue its groundbreaking research in the area of prostate cancer.

In terms of our veterans, we also make a substantial effort to reduce the claim time for how long a veteran has to wait in order to get their disability benefit. They had to often stand in line when they were in the U.S. military. But after the way they serve their country, they should not have to stand in line for almost a year in order to see if their disability claim can be processed. We are working on a bipartisan basis to shorten that.

As to the Department of Housing and Urban Development, we had three goals: Expand housing opportunity for the poor, rebuild our neighborhoods, and help special-need populations. To do that, we have renewed all the section 8 housing vouchers. We have funded this program at \$15.6 billion. This is \$1.7 billion over last year.

At the same time, we restored cuts proposed by the President to the critical public housing capital program by funding it at \$2.8 billion. We have increased funding for the public housing operating cost by \$250 million over last year for a total of \$3.5 billion.

Knowing that many of our colleagues believe the decisions are best made locally, we wanted to keep our commitment to the community development block grant money, and we have increased that by over \$200 million. This year CDBG will be funded at \$5 billion.

For other HUD programs, we have continued at last year's level the funding for brownfields, housing for the elderly, and housing for the disabled. But we have, in order to create home ownership, included language to raise the FHA loan limit for multifamily housing by 25 percent this year. This came from the private sector, home builders, as well as the AFL-CIO. I believe this

will mean more rental property will be available. We cannot voucher our way out of our housing crisis. We need a new production program. This has long been a position held by my colleague, Senator BOND. I look forward to the recommendation of the Millennial Housing Commission and the Commission on Senior Housing. We look to those in the private sector and the non-profit sector to give us guidance on what a 21st century HUD should look like, which will create real hope and opportunity. We provided the inspector general with no less than \$5 million, and this will also be going after predatory lending.

Let's move on now to EPA. For EPA, the conference agreement provides \$7.9 billion, an increase of \$587 million above the budget level. This is \$75 million above what we funded last year. What do we get for our money? First of all, we get EPA enforcement. This is funded at last year's level of \$465 million. We can keep the current level of enforcement.

The conference agreement also keeps our commitment to clean and safe water by fully funding the Clean Water State Revolving Loan Fund at \$1.35 billion, which is an increase over the President's budget request. We also fully fund the Drinking Water SRF at \$850 million, an increase of \$27 million over the President's budget request.

This country is facing an enormous backlog of funding for water infrastructure projects. Every single one of my colleagues talks to me about sewer or water infrastructure projects, failing septic tanks, how to comply with the new arsenic requirement; we have aging systems in my own region, as do New Orleans and Chicago. I could give every single Senator a billion dollars to take back to their State, and it would be just a drop in the bucket for this need.

I hope, as we look at the stimulus package, we look at how we can fund clean water and safe drinking water projects because, at the end of the day, I believe we will stimulate the local economy and create jobs but have value for our dollar.

We also kept our commitment to cleanup. We provided \$1.27 billion for the cleanup of Superfund sites. This also includes \$95 million for brownfields. We have included \$22.6 million for the National Estuary Program. Again, we have worked closely with the administrator.

For FEMA, we maintain our commitment to protecting our homeland by providing FEMA with \$3 billion. We provide \$2.1 billion for disaster relief to ensure that we are ready to respond to any future disaster. We have also worked very closely with Joe Allbaugh, the FEMA Director, to be sure we respond to the needs of New York and local communities and, at the same time, are ready for those natural disasters like hurricanes and tornadoes that could affect us.

We also wanted to support America's heroes, our firefighters, and in this bill

we fund the Fire Grant Program at \$150 million in order to be able to fund the firefighters' need of protective gear and equipment. This program is authorizing \$3 billion. We would prefer to do more and look forward to doing more in the stimulus package. We understand Senator BYRD is going to work closely with us to do this.

In order to be protected by the firefighters, we need to protect them and make sure they have the protective gear, respiratory gear, and the technological tools to go into horrific situations. In order to be able to protect us, they need to have the right equipment. Many firefighters in America are volunteers; we ask them to do it on their own time and on their own dime. We can't protect our firefighters and give them the equipment they need based on bingo and fish fries at the local level—although, I sure like those bingo games and fish fries. They are fun things to do, but they are not a reliable funding stream. We have to back them.

Let's go to NASA. We provide \$14.8 billion for NASA programs, which is \$500 million over last year. Our top priority remains the safety of our astronauts. We made a significant investment in shuttle upgrades, including \$207 million allocated for safety upgrades to the space shuttle. By improving the safety of the shuttle, we reduce the risks to our astronauts.

We fully fund the rest of the shuttle program at over \$3 billion for fiscal year 2002. For the space station, we redirected \$75 million to other pressing needs such as safety upgrades to the shuttle and other science and aeronautics programs. We know that former astronaut Tom Young is taking a look at our space station. We like it; we think it is very important to our country and to the world. But we also believe that the management of the space station has had a fiscal permissiveness that has allowed unacceptable cost overruns. They had over \$4 billion in overruns. We can't let that stand.

This independent review team, chaired by former astronaut Tom Young, has given us a new roadmap for the station. I can assure the Senate and our taxpayers that we will be holding hearings and meetings to be able to ensure that we keep our commitment to the space station, do our research, keep our astronauts safe, but at the same time have fiscal responsibility.

For the National Science Foundation, the conference agreement provides \$4.8 billion, an increase of 8.4 percent over last year. This represents a downpayment on an effort initiated by Senator BOND and myself to double the NSF budget. We want to do that in 5 years. I think we might have to wait 6 years to do it, but we are convinced it is in the Nation's long-term interest that funding for basic research in all science and engineering disciplines must increase substantially.

We have increased the funding in several areas for research, such as information technology and nanotechnology

and, of course, in agricultural biotech, on which, of course, the ranking member has been a leader. But also, at the same time, we really try to back our young researchers so that young Americans will choose science and scientific research as a career.

We have also maintained the Corporation for National Service. Voluntarism is our national trademark, and this agreement maintains our commitment to AmeriCorps and other agencies within it.

There are also 25 other agencies, but I am not going to go through all 25. We have kept our commitment to them. I thank the President for giving us the opportunity to work with very excellent Cabinet people. Again, we were under very difficult circumstances, with a late start, but there was an orderly transition.

I think we have met our charge to the compelling needs of our constituents, the long-range needs of our Nation and done it with fiscal stewardship, which I believe the taxpayers require from us.

Mr. President, that concludes my summary of the bill.

I thank Paul Carliner, Gabriel Batkin, and Joel Widder of my staff for giving me the support that I needed. I thank John Kamarek and Cheh Kim from Senator BOND's staff for their cooperation and collegiality.

Mr. President, I hope that at the conclusion of our debate, when we take the rollcall, the Senate will support this conference report. They can go back and talk to every single one of their constituents, whether it is a veteran from the "greatest generation," or the firefighters, the warriors of this generation, or the scientists who are giving us the ideas to keep America strong and safe, or the poor who depend on us even at this time. We have a great bill and I hope that this bill will pass.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the conferees of this bill for their hard work in completing this conference report for this legislation.

The report provides critical Federal funding for the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies. The conference report spends at a level of 4.1 percent higher than the level enacted in fiscal year 2001.

In real dollars, this is \$2.1 billion in additional spending above the amount requested by the President, and a \$4.4 billion increase in spending from last year.

Once again I find myself in the unpleasant position of speaking before my colleagues about parochial projects in yet another conference report. I have identified over \$1 billion in earmarks, which is greater than the cost of the earmarks in the conference re-

port passed last year. Last year, it was \$970 million. So far this year, the total of appropriations pork-barrel spending has already hit a staggering \$9 billion.

Before I go into some specifics—and it will not be many on this bill—I would like to quote from an article by Deroy Murdock of the Scripps Howard News Service that was published on October 14, 2001. He says:

Each dollar spent on pork-barrel projects is one less dollar that can be devoted to the War on Terror. This inescapable fact somehow has escaped members of Congress. While senators and representatives swiftly and wisely approved \$40 billion in recovery and defense funds after the Sept. 11 massacre, they quickly relapsed into old habits.

Congress again is spending money as recklessly and foolishly as it did on Sept. 10. Even as U.S. warships steam toward the Persian Gulf, Citizens Against Government Waste, a Washington-based fiscal watchdog group, has calculated in military terms the opportunity cost of business as usual.

Sidewinder missiles sell for \$41,300 each. . . . Tomahawk Cruise missiles are \$1 million apiece while one F-15 fighter jet costs \$15 million. Pork projects chew right through cash that could purchase these and other weapons the Pentagon will need to crush the international terror network and its state sponsors.

For instance, on Sept. 13, the Senate adopted the fiscal 2002 Commerce, Justice, State, and Judiciary Appropriations Bill. Consider just several items the Senate approved while the Pentagon and Ground Zero still smoldered:

—\$2 million for the Oregon Groundfish Outreach Program and \$850,000 for Chesapeake Bay Oyster Research.

Cost: 69 sidewinders.

—\$6 million for the National Infrastructure Institute in Portsmouth, New Hampshire.

Cost: Six cruise missiles.

—\$204 million for the Advanced Technology Program, a quintessential corporate welfare boondoggle, for which the Bush administration requested only \$13 million.

Cost: Thirteen F-15 fighters.

Even more maddening is a brand-new bill to expand farm subsidies one year before the existing spending plan expires. The Farm Security Act would increase agricultural pork by \$73.1 billion over the next 10 years. Added to the \$96.9 billion budget baseline, Uncle Sam would plow \$170 billion into the ground through the year 2011.

This bill authorizes \$101 million for honey producers. The once-terminated wool and mohair program rises again, \$202 million strong. Peanut farmers can expect \$3.48 billion. This bill would also revive a \$37.1 billion in "counter-cyclical assistance" which was scrapped in 1996.

I talked about this at another time.

The U.S. Agriculture Department released a study last month that describes these subsidies as spectacularly wasteful and fundamentally unfair. Forty-seven percent of agricultural payments go to commercial farms with average household incomes of \$135,397, more than 2½ times the average American household's \$51,855 in earnings.

According to the Associated Press, just 10 percent of farm owners shared 63 percent of last year's \$27 billion in federal agriculture payments.

Media tycoon Ted Turner received farm aid, as did Portland Trail Blazer Scottie Pippen. Modestly paid waitresses and school bus drivers pay twice for largesse—first through taxes, then again as agricultural price supports hike their grocery bills. . . .

These legislative hijinks are bad enough in peacetime. America is at war. Soldiers, sail-

ors, airmen, and Marines are kissing their loved ones goodbye and shipping out to face a vicious and bloodthirsty enemy lurking in foreign shadows. Right now, Congress should grow up and stop treating the domestic budget as a political Toys R Us. Americans already are making huge sacrifices. Weak tourist revenues have lowered the curtains on five Broadway shows. Hotel beds have gone empty as conferences have been canceled, and weddings have been scaled back or postponed. Major U.S. airlines have fired 87,000 employees since terror struck.

Amid such national belt-tightening, it is beyond ugly to watch public servants loosen their belts as their pork-laden bellies swell. If the American people must live with less, so must their representatives.

I would like to read the words of OMB Director Mitch Daniels who said that in time of war:

Everything ought to be held up to scrutiny. . . . Situations like this can have a clarifying benefit. People who could not identify a low priority or lousy program before may now see the need.

Mr. President, we obviously have not seen the need in this conference report, and I intend to clarify some items stuffed in the bill. Let us take a look at this year's porkbarrel spending projects in the VA-HUD conference report before us.

No. 10: \$1 million for Spring Hill College in Mobile, AL, for construction of the Regional Library Resource Center;

No. 9: \$175,000 for the Fine Arts Museum of San Francisco, CA, for construction needs of the M.H. de Young Memorial Museum;

No. 8: \$1 million for Dubuque, IA, for the development of an American River Museum;

No. 7: \$300,000 for the Central Missouri Lake of the Ozarks Convention and Visitor Bureau Community Center;

No. 6: \$750,000 for the Center for Agricultural and Rural Development at Iowa State University;

No. 5: \$1 million for the Mid-Atlantic Aerospace Complex in West Virginia.

You will notice, Mr. President, each one of those is earmarked to a specific location. For example, in my State of Arizona, we just voted a bond issue to expand our convention facilities. They are not going to have to do that in the Central Missouri Lake of the Ozarks because they are going to build a convention center, and we are going to give them \$300,000 to do so.

Again, No. 5, \$1 million for the State of West Virginia, which seems to pop up quite a bit.

There is an additional \$250,000 to Maui for the control of nuisance seaweed accumulations on the beaches of Kihei, Maui, HI;

\$100,000 for the Memphis Zoo in Memphis, TN, for the Northwest Passage Campaign;

\$140,000 for the city of El Reno, OK, for development of a trolley system;

And \$190,000 for the city of Spartanburg, SC, for the Motor Racing Museum of the South.

Mr. President, we are in a war. Isn't this really unconscionable? Isn't it

really unacceptable? Isn't it really quite a commentary that the earmarks in this year's bill are higher than last year's bill? Isn't it interesting that each one of these is earmarked for a specific place? Perhaps the Presiding Officer's home State would like to compete for money for a Motor Racing Museum of the Midwest since we are giving money to Spartanburg, SC, for the Motor Racing Museum of the South.

We are now about to have a big fight with the President and my colleagues on the other side of the aisle about increased spending. How can my colleagues on this side of the aisle go into that battle with clean hands when we continue to add porkbarrel project after porkbarrel project—\$9 billion so far of unrequested, unauthorized items that are specifically earmarked for certain powerful members of the Appropriations Committee. That is not right, Mr. President.

Sooner or later, we are going to educate the American people about this, and it is going to come to a halt. I am afraid it may be later rather than sooner. It continues to lurch out of control, and no one believes we have enough money for defense spending. No one believes that. That is why we are spending extra money on defense, and yet these projects continue to be added both in conference as well as in the bills themselves, and it is not acceptable.

It is not acceptable. If the average American knew more about this, they would reject it.

I intend to do as I have done in the past to make sure as many Americans understand where their tax dollars are spent.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am proud to rise in strong support of a conference report on H.R. 2620, the VA-HUD fiscal year 2002 appropriations bill. The chair of the committee, Senator MIKULSKI, has done an excellent job in crafting this measure. I am deeply grateful for her leadership.

She was kind enough to talk about the smooth transition. It was not something we desired, but it was something that worked extremely well because we have had the good fortune of being able to work closely on this measure for a number of years. In fact, it was a seamless transition.

I believe the legitimate wishes and concerns of Members of this body, the needs of the veterans, those who depend upon housing for Federal Government assistance, those who depend upon the Environmental Protection Agency to clean up our rivers and our waters and our air, are well served by this measure.

I add my compliments to Congressman WALSH, the chair of the House VA-HUD Committee, and Congressman MOLLOHAN, the ranking member. This bill has been a very tough one because

of the limitation on funding, but I believe it strikes the right balance. We have met many of the administration's funding priorities, and I compliment the administration for not looking to create a series of new programs but instead focusing on some exceptions, maintaining existing program levels and reforming program implementation to ensure that agencies can deliver assistance under existing program requirements.

The Senator from New Mexico has asked for a few minutes out of my time, so I ask the Presiding Officer to notify me when I have used 9 minutes of time. I do wish to reserve some time for Senator DOMENICI for a very pressing issue he must address.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, the respective leaders have asked the vote be held at 4:30, so we are going to have some extra time. We can accommodate the Senator for as much time as he or the distinguished Senator from New Mexico would like to have.

Mr. BOND. Mr. President, I thank my chairman. I will try to be reasonably brief, but there are some important things I wish to include.

To return to the analysis of the bill, the VA and veterans needs remain the highest priority of the bill. The funding decisions in this bill are designed to ensure the best quality of medical care for our veterans and to keep the best doctors in the VA system. Furthermore, Senator MIKULSKI and I are committed deeply to meeting the medical needs of veterans, and we are working with the VA and the administration to ensure the successful implementation of the new CARES process, which is designed to assure that VA has the facilities it needs, that targets the services and the medical care throughout the country, and gets rid of unneeded facilities that drain money away from needed care for veterans.

In addition, the VA-HUD bill appropriates some \$30.2 billion for the Department of Housing and Urban Development, an increase of \$1.7 billion. This includes funding to renew all expiring section 8 contracts and provides for 18,000 incremental vouchers. I do remain deeply concerned that vouchers do not work well in many housing markets. We do, as the chairman of the subcommittee mentioned, need to develop new production programs that assist extremely low-income families in particular. This is a need that we must address, and we look forward to working with the authorizing committees, the Millennium Housing Commission, and others, to ensure it is addressed.

The bill also reflects our continuing support for CDBG, the HOME Program, homeless assistance, FHA mortgage insurance, and assistance for abatement of lead hazards in housing.

As for the Environmental Protection Agency, the bill includes a \$587 million increase to \$7.9 billion, \$74 million over

the fiscal year 2001 level. The bill maintains funding of the clean water State revolving fund at \$1.35 billion and drinking water at \$850 million. I cannot emphasize enough the importance of continuing to maintain funding for these State revolving funds.

The clean water infrastructure financing alone, there is a need in this country for some \$200 billion over the next 20 years, excluding replacement costs and operation and maintenance.

I want to address some comments made about spending characterized in this bill as porkbarrel. The Members of this body know this bill funds monies that go through to State and local governments. This is a measure that includes funds for the Community Development Block Grant Program. Under that program, we take Federal dollars and send it back to the local communities so Governors, mayors, and city council members can allocate the needs in their community.

Is that porkbarrel? I happen to think that providing money for needed community improvements is not porkbarrel spending. This measure also sends, as I just said, \$1.35 billion for the clean water state revolving funds to clean up sewers, and \$850 million for safe drinking water. Is that porkbarrel? I do not think so.

The greatest need for many of our communities, whether they be large or small communities, is to have the money they need to develop projects that will make them strong communities and to assure that the water systems are healthy. We provide that money.

Now my colleague was addressing the fact that out of that money, we send back for community development block grants some 6.8 percent. Less than 10 percent has been designated by Members of the House or the Senate for particular high need activities and investments in communities in their State.

Do Members of Congress somehow know less about the needs of their communities for community development? Do Members of Congress somehow know less about the need for critical improvements to water and sewer supply systems? I think not.

This money goes to those communities that have needs for tremendous efforts to improve community life, whether it be facilities that will bring in more business or whether it be money to go to drinking water or cleaning up sewer water in the States. This is one of the areas where those legislators in Congress who are concerned and who pay attention to the needs of their State can find areas where there are pressing needs. I believe, by and large, they do an excellent job, and we do a good job.

One may quarrel with some of the decisions made by local officials on community development block grants. One may quarrel with some of the decisions made on clean water in State revolving funds for drinking water, but the fact

remains there are tremendous needs in all of these areas. So I am very proud of the fact we are able to assist States, communities, and localities in taking care of their needs.

Mr. President, I do not see the Senator from New Mexico. I believe we have additional time remaining so I will continue and intend to address the subject he was going to address because I know he feels very strongly about it. One of the major controversial areas we have addressed in this bill concerns the level of arsenic in drinking water. In this case, the bill supports the current regulation of 10 parts per billion for arsenic levels in drinking water, and while this level is supported by a number of scientific studies, the requirement that the communities must meet these new requirements by 2006 is very troubling because there are communities in the United States, especially communities in the West, communities in New Mexico and Idaho and other States, where there are high levels of naturally occurring arsenic in the water.

Unfortunately, for communities which are small and do not have the financial ability to meet these requirements, the possibility is some very unwanted consequences of forcing through a regulation on all communities. We provide some relief in these communities through a temporary waiver. Our colleagues on the authorizing committees objected to this approach even though the leaders of the committee on both the House and Senate sides believed it was warranted. The conference report defers to those committees and suggests the authorizing committees pay attention to an evaluation to be done by EPA on the affordability of these projects and how a small system variance and exemption programs should be implemented for arson. This is a serious issue. Congress will have to address and balance this need over the next few years, both the financial burdens and health concerns faced by the small communities on the new arsenic standards.

To be blunt, the last thing we need is to push these communities, with high arsenic levels in their drinking water, to abandon local municipal water systems which are reducing the levels of arsenic and force residents to go back to untreated and unregulated wells where they would be getting potentially higher levels of arsenic and potentially being exposed to greater health risks, not only from arsenic but from other sources of water pollution that would be treated in the municipal water systems.

For FEMA, the conference report includes \$1.5 billion in emergency disaster assistance, funding for firefighters, and flood mapping and mitigation. I join with my colleague from Maryland in expressing my gratitude for the way FEMA moved in. They have our highest appreciation. They stepped up to the plate and assisted the citizens of our Nation during this time of need.

I will address for my colleagues the fact, at the request of Representatives and Senators from New York, that we took special note of the economic needs of the people and businesses in New York that have been devastated by the tragic terrorist attack of September 11. The President allocated \$700 million for New York for the VA/HUD community development block grant. In this bill we included authority for HUD to meet these needs through existing programs, including broad authority to waive a part of the statute—except for labor standards, environmental standards, fair housing, and antidiscrimination—to meet these truly pressing needs. I understand a community economic development corporation has been established to allocate these funds.

I believe the Governor and the mayor set up a Lower Manhattan Redevelopment Corporation that will hand out the funds. I raise this point because today the Environment and Public Works Committee passed out of committee a new measure setting up a different form of allocating these funds. I caution members of that committee, on which I happen to serve, that we not set up a competing structure. We need to do the job well. We need to do it right. We need to do it one time and not have two different structures stumbling all over each other. We have, we think, dealt with the concerns, and we will be happy to work with friends and colleagues from New York to make sure we do it effectively.

Finally, I mention in addition to funding NASA at \$14.78 billion, we have expressed grave concerns about the serious cost overruns. The costs of the International Space Station have continued to grow, over \$4 billion above more recently; it is probably now \$5 or \$6 billion. There seems to be a total loss of management control by NASA with regard to the space station. We have received a report from the Young commission to study the International Space Station. I believe it is a top priority for the administration to find a new Administrator as soon as possible to review the extensive analysis and major recommendations of the Young commission and make whatever program and management reforms are necessary to ensure the ISS and other NASA programs meet our expectations and not rob the funding for NASA.

I express my strong feeling, as the chair of our subcommittee has, for the need to double the National Science Foundation budget. We have to meet pressing human priorities. But for the long run, the pressing human needs of this country are going to be met to the extent that we fund the scientific exploration that goes on in the National Science Foundation. We should not be shorting the basic scientific research. I hope we can have the support of our colleagues to get the money to increase it next year to put us on the path of doubling.

In addition to thanking Senator Mikulski, I express my sincere thanks to

the members of the subcommittee and my staff, Jon Kamarck, Cheh Kim, and Isaac Green, who worked long and hard. They have become very good friends and worked closely, particularly in the new setting with limited space, with our good friends, Paul Carliner, Gabrielle Batkin and Joel Widder, for their quality work and commitment to the process. They have done an excellent job, and we are very proud of the work they do.

I, too, commend this bill to my colleagues and urge unanimous support.

I yield the floor.

Mr. SARBANES. Mr. President, I come to the floor today to voice my support for the fiscal year 2002 HUD-VA conference report. I congratulate Chairwoman MIKULSKI and Senator BOND for the outstanding job they have done to provide HUD with the resources it needs, while working within a very tight allocation for all of the agencies within their jurisdiction.

The conference report before us today is a great improvement over the administration's budget request. The budget request for HUD, the agency that provides housing assistance to this Nation's poorest families, was sorely inadequate. Their proposal would not even have provided the funding necessary to maintain HUD programs at current levels.

The appropriators recognized the great need for housing assistance in this country by providing more funding than the administration requested in almost every program area.

The increases included in this bill are clearly needed. We have a severe housing crisis in this country, and the need for housing assistance continues to grow. In addition to the 5 million very low-income households in this country who have worst case housing needs, which means they are either paying more than half of their income towards rent or living in severely substandard housing, another 2 million people will experience homelessness this year. These families face greater challenges today, as the Nation's low-income housing stock continues to shrink. In the past decade, the number of units available to extremely low-income renters has dropped by 14 percent, a loss of almost a million units.

These statistics make clear that programs to aid low-income families must not be cut, but must be expanded to meet the growing need. Unfortunately, the overall funding level requested by the administration put Congress in the untenable position of choosing between maintaining the current affordable housing stock or funding additional needed housing units. The appropriators were forced to forego expanding housing opportunities so that scarce Federal resources could be used to maintain existing housing, a choice that is both cost-effective and necessary. While we need to expand Federal housing programs, we have an obligation to ensure that the affordable housing that exists is habitable and safe.

For this reason, I am pleased that the conference report increases funding for public housing, a program that houses over 1.3 million of this Nation's poorest families. This bill provides \$2.84 billion for the Public Housing Capital Fund, the fund used to repair and modernize public housing—\$550 million above the administration's request. There is a significant need for Public Housing Capital Funds as HUD estimates that there is currently a \$22 billion backlog in needed capital repairs in public housing. A cut of the magnitude proposed by the administration would have led to further deterioration of this Nation's public housing stock. Fortunately, the bill before us today provides additional funding, helping us to maintain a much needed resource and to ensure that the Federal investment in public housing is protected.

Recognizing the importance of public housing, the conference report funds the Public Housing Operating Fund at \$3.5 billion, \$110 million above the administration's request. I am disappointed that this bill does not separately fund the Public Housing Drug Elimination Fund. The administration requested no funding for this critical program which helps to fight drugs and crime in our public housing communities. The conference report provides \$250 million more for the Operating Fund than provided in fiscal year 2001 to ensure that PHAs will not have to cut all of their anticrime activities. While this increase will assist PHAs in continuing after-school programs, mentoring activities, and safety patrols, I am concerned that PHAs may be forced to use the increased funding to pay for rising utility costs, leading to a reduction in activities normally funded by the Drug Elimination Fund.

In addition to ensuring that public housing is maintained, this bill fully funds the Homeless Assistance Programs. I am pleased that the bill provides \$100 million to fund Shelter Plus Care renewals. Shelter Plus Care provides permanent housing to formerly homeless people, and this \$100 million will maintain all of these housing units, while allowing communities to continue to meet the demand for additional homeless services.

The conference report continues to expand the section 8 voucher program. I am concerned that we are only providing an additional 17,000 incremental vouchers, as compared to 79,000 vouchers

provided last year. While I had hoped we would be able to provide as many vouchers as last year, I appreciate the effort of the appropriators to continue expanding the voucher program even with such a tight budget allocation.

One area of concern in this bill is the cut in section 8 reserves from 2 months to 1 month. These reserves are used in the event of higher program costs so that the section 8 program can continue to serve the same number of families. According to the Congressional Budget Office, this cut could result in a decrease of almost 25,000 vouchers being used this year. This would be an unfortunate, and devastating consequence. Fortunately, the appropriators included report language directing HUD to ensure that PHAs can fund all of their vouchers, and I expect HUD to implement these changes so that the number of families receiving vouchers is not decreased.

Housing assistance for elderly people and those with disabilities is also increased in this bill. Housing for the elderly is funded at \$783 million, an increase of \$4 million over the fiscal year 2001 level, and housing for people with disabilities is funded at \$240 million, an increase of \$23 million. In addition, I am pleased that the conference report provides \$277 million for Housing for Persons with AIDS, an increase of \$20 million over last year's funding level. This \$20 million will ensure that additional communities in need of housing assistance for people with HIV and AIDS will receive Federal funding. These increases will go a long way in providing needed housing to this nation's most vulnerable citizens.

At this time of economic uncertainty, it is imperative that we not turn our backs on low-income families in need of housing assistance. Though it is unfortunate that the administration's budget request forced us to forgo expanding affordable housing opportunities further, the bill fully funds the HOME program, which is a primary vehicle for building affordable rental housing. The need for new affordable rental housing is growing, and I hope that we can work over the next year to secure additional funding for housing construction.

Hard choices had to be made in hammering out a final version of this bill, and I understand that all of our priorities could not be funded at the desired levels. As a whole, I support this bill,

and commend Chairwoman MIKULSKI and the other members of the Appropriations Committee for negotiating a bill that greatly improves on the inadequate budget request, and affirms our commitment to housing this Nation's poor.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring for the conference report to H.R. 2620, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 2002.

Including an advance appropriation into 2002 of \$4.2 billion, the conference report provides \$85.434 billion in discretionary budget authority, of which \$143 million is for defense spending. The conference report will result in new outlays in 2002 of \$40,489 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report total \$88.463 billion in 2002. The conference report is within its section 302(b) allocation for both budget authority and outlays.

Included within the \$85.434 billion in budget authority for 2002 is \$1.5 billion in emergency-designated sending authority for the Federal Emergency Management Agency for disaster relief activities. The emergency funding, which is not estimated to result in any outlays in 2002, is consistent with the revised 2002 budget reached between President Bush and Congressional leaders last month. Per section 314 of the Congressional Budget Act, I have adjusted the Appropriations Committee's allocation for 2002 by the amount of the emergency funding. In addition, the conference report provides an advance appropriation for section 8 renewals of \$4.2 billion for 2003. That advance is allowed under the budget resolution adopted for 2002. Finally, the report would reduce federal revenues by \$32 million in 2002. By law, the revenue loss, which results from changes made to certain HUD and EPA fees, will be placed on the PAYGO scorecard.

Mr. President, I ask for unanimous consent that a table displaying the budget committee scoring of this bill be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2620, CONFERENCE REPORT TO THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISONS—CONFERENCE REPORT

(In millions of dollars)

	General purpose <sup>1</sup>	Defense <sup>1</sup>	Mandatory	Total
Conference report: <sup>2</sup>				
Budget Authority .....	85,291	143	26,898	112,332
Outlays .....	88,326	137	26,662	115,125
Senate 302(b) allocation: <sup>3</sup>				
Budget Authority .....	85,415	138	26,898	112,451
Outlays .....	88,463	0	26,662	115,125
President's request:				
Budget Authority .....	83,221	138	26,898	110,257
Outlays .....	87,827	136	26,662	114,625
House-passed:				
Budget Authority .....	85,296	138	26,898	112,332
Outlays .....	87,909	136	26,662	114,707

## H.R. 2620, CONFERENCE REPORT TO THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2002, SPENDING COMPARISONS—CONFERENCE REPORT—Continued

[In millions of dollars]

	General purpose <sup>1</sup>	Defense <sup>1</sup>	Mandatory	Total
Senate-passed:				
Budget Authority .....	85,905	138	26,898	112,941
Outlays .....	88,320	136	26,662	115,118
CONFERENCE REPORT COMPARED TO:				
Senate 302(b) allocation: <sup>3</sup>				
Budget Authority .....	—124	5	0	—119
Outlays .....	0	0	0	0
President's request:				
Budget Authority .....	2,070	5	0	2,075
Outlays .....	499	1	0	500
House-passed:				
Budget Authority .....	—5	5	0	0
Outlays .....	417	1	0	418
Senate-passed:				
Budget Authority .....	—614	5	0	—609
Outlays .....	6	1	0	7

<sup>1</sup> The split between general purpose and defense spending is for illustrative (i.e., nonenforceable) purposes only. The 2002 budget resolution includes a "firewall" between defense and nondefense spending, contingent on an increase in the discretionary caps. That contingency has not been met.

<sup>2</sup> The conference report includes \$1.5 billion in general purpose emergency spending authority for FEMA disaster assistance.

<sup>3</sup> For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation. In addition to the amounts shown, the conference report also would reduce federal revenues by \$32 million in 2002. By law, the revenue loss, which will result from changes made to HUD manufactured housing and EPA registration fees, will be placed on the PAYGO scorecard.

Notes.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. JEFFORDS. Mr. President, I rise today in support of the VA-HUD conference report, H.R. 2620. I appreciate the conferee's recognition of the importance of the Environmental Protection Agency's enforcement budget, as well as full funding for state revolving loan funds. These are priorities for the Committee on Environment and Public Works.

Another priority for the Committee is ensuring the American public that when they turn on their faucets in their homes and businesses, day care centers and hospitals, they will fill their cups with clean, safe water. The new standard for arsenic in drinking water is a welcome measure to improve the quality of drinking water nationwide. Earlier this year, I was concerned when this Administration announced its intention to review the new, lower arsenic standard issued by the last Administration. Last week, I was relieved when EPA Administrator Whitman announced her intention to abide by the 10 parts per billion standard as well as the 2006 compliance date.

As Administrator Whitman stated in her letter to me on October 31st, the science clearly supports an arsenic standard no higher than 10 parts per billion. Over the past several months, three new independent scientific studies have been conducted by the National Academy of Sciences, the National Drinking Water Advisory Council and EPA's Science Advisory Board. These studies tell us that arsenic in drinking water is a public health concern, and that the levels allowed by current law are much too high. In fact, these studies support a standard lower than 10 parts per billion. EPA tells me they have received more than 55,000 comments from the public on this subject. Clearly, this new, lower standard confers an important protection, supported by many of our citizens.

I am aware of the concerns that some of my colleagues have expressed about the ability of small communities to comply with the new arsenic standard. I have read the conference report language directing EPA to study this

issue, and I look forward to receiving EPA's report. Indeed, with the significant public health concern associated with arsenic in drinking water, we care greatly that all communities are able to comply. Although current law contains affordability criteria as well as waiver and variance provisions, I would hope that we can provide financial assistance to these communities, if they need it, so that they can comply with the new standard in accordance with the compliance deadline and without having to avail themselves of these mechanisms. With such a pressing health issue at stake, what the public needs is timely compliance, not delay.

I also thank the conferees for their attention to a hazardous waste issue known as the "mixture and derived from rule." While EPA will continue to pursue exemptions for certain low-risk wastes, the conferees' commitment to supporting exemptions only where sound science applies will ensure protection of human health and the environment.

I urge my colleagues to support the conference report.

Mrs. BOXER. Mr. President, I am pleased that the conference report on the VA-HUD Appropriations bill includes a provision requiring the Bush administration to end its delay of the Clinton rule establishing a tougher standard on arsenic in drinking water.

The statutory language is similar to the amendment I offered to this bill, which passed the Senate 97-1. This language will result in a 10 parts per billion standard for arsenic and will ensure the community's right to know when unhealthy levels of arsenic are present in the drinking water.

I am concerned, however, about language in the conference report. It says that the Administrator should focus on developing procedures that would result in extensions of time for small systems to comply with the arsenic standard. Clearly, those extensions would have to be consistent with the Safe Drinking Water Act requirements. But they would only result in further delay.

In addition, the Administrator is asked to report to Congress on legislative proposals that address further extensions of time for compliance by small systems. The focus of EPA's limited resources should be on helping these systems to accelerate compliance—by providing technical and financial assistance—not on how to further delay compliance.

As a member of the Environment and Public Works Committee, that will be my focus. I will be working to provide funding for small communities to meet the 10 parts per billion standard, and I will not support legislative proposals that provide additional extensions and delay even more the time when all Americans have safer drinking water.

Mr. KERRY. Mr. President, while I will support the fiscal year 2002 VA-HUD and Independent Agencies conference report, I must express my strong disappointment in the funding level included in the bill for YouthBuild. I strongly believe that YouthBuild proves that the Federal Government, working in cooperation with community-based non-profits, can make a real difference in the lives of young people, the young people that most Americans have given up on. During Senate consideration of the VA-HUD appropriations bill, I successfully included an amendment to provide a \$10 million increase in funding for YouthBuild. A similar amendment was included in the House, so the amount allocated to YouthBuild was approximately \$70 million in each bill.

While I understand the difficult allocation which the Subcommittee operates, I am nevertheless very disappointed that in the Conference Report included only \$65 million for YouthBuild. With strong support for YouthBuild in both the House and the Senate, I believe this program deserved \$70 million in fiscal year 2002. These additional funds would have assisted YouthBuild in expanding its programs across the nation and assisted more at-risk youths.

YouthBuild is designed to serve those that, too often, have proven to be the

hardest to serve. In return, they serve us, by getting job training, learning a skill, completing their educations, and working in communities across the country rebuilding housing, providing desperately needed affordable housing to other needy families.

Many low-income young adults are having great difficulty achieving success in our society. YouthBuild attracts low-income young adults who have dropped out of school. Many participants have been adjudicated, are from welfare families, have children already and live in public housing projects. The premise of YouthBuild is that these young adults need and deserve a second chance, that they are eager to live productive, constructive lives, and we cannot afford not to provide them with that second chance. Skills, education, inspiration and support provided by YouthBuild help them make the transition to the jobs or higher education.

YouthBuild is the only national program that provides young adults an immediately productive role in the community while at the same time providing all of the following benefits to participants: basic education toward a diploma; skills training toward a decent paying job; leadership development toward civic engagement; adult mentoring to help overcome personal problems; and participation in a supportive mini-community with a positive set of values.

Of those that enter YouthBuild, 67 percent complete the program. 85 percent of YouthBuild graduates are placed in college, or get a job with an average wage of \$7.53 per hour. Many become leaders in their communities, both while they are in the program and thereafter.

YouthBuild receives bipartisan support for one simple reason—it works. The program fills a major gap in public policy by addressing the needs of at-risk, out of school young adults in a more comprehensive way than any other existing national program. That is why I circulated a letter with Senator MIKE DEWINE, which was cosigned by 63 Senators, in support of increasing funding for YouthBuild to \$90 million.

YouthBuild program has grown from 15 sites which served 600 at-risk youth in 1993, to 145 sites serving approximately 5,800 youth in 40 States today. The engine of this growth has been the HUD appropriation. The fuel has been the highly motivated local leaders whose commitment keeps the program on the cutting edge of community needs. They have raised State, local, and private funds to supplement Federal funds and extend the reach of this important program. Major support from the Ford Foundation, the Charles Stewart Mott Foundation, The DeWitt Wallace-Reader's Digest Fund, local Rotary Clubs, The Home Depot, US Bancorp, and Metropolitan Life Insurance Company demonstrates that the network is highly regarded by leaders in the private sector. YouthBuild at-

tracts, motivates, educates, and trains precisely the young people who have fared least well in virtually all other existing systems.

The demand and need for YouthBuild programs far exceeds the resources allocated to it. Successful YouthBuild programs have 6 to 10 times more applicants each year than they can accept. In this period, with the economy in need of qualified workers and the number of at-risk adults is increasing, it is excellent public policy to invest in a proven national model that can bring these young adults into employment, post-secondary education, and constructive civic engagement.

The best way for me to explain to you the importance of YouthBuild is to tell you about one the YouthBuild programs. YouthBuild Springfield, MA, has received more than 250 applications for its services since it opened in 1999, and has been able to serve 80 young people in a comprehensive, year round programs which includes education and employment training, as well as community and leadership development. Over half of the participants are young women, many with dependent children. All of the participants commit to being drug free, participate in weekly drug education workshops, and agree to random drug testing. They provide four therapy groups each week and access private therapy as needed. They have maintained a 77 percent retention rate, 86 percent attendance rate, and 82 percent placement rate at an average wage of \$8.10 per hour. Another 10 percent have gone on to further training or college.

With the strong bipartisan support for YouthBuild, I am hopeful that we will be able to increase the appropriation for this important program in fiscal year 2003.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I ask unanimous consent the vote on adoption of this conference report to accompany H.R. 2620, the VA/HUD appropriations bill, occur at 4:30 p.m. today and that if all time for debate has expired, the time until 4:30 p.m. be equally divided and controlled by the two managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am happy to yield to the Senator from Texas such time as she may consume.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to talk about the VA/HUD bill which has a number of good parts to it. I know the managers have worked very hard to divide up the dollars. It is always hard when there are not as many dollars as projects.

I specifically want to talk about the issue of NASA. I know of the great concerns, because it is very obvious from the bill, and, frankly, they are valid concerns, about the management of the space station and the cost overruns. I also understand there are concerns

about the overruns hurting other programs within NASA.

When you are doing something new, when you are pushing the envelope of technology, you cannot always be precise. This is not to say some of the overruns have been invalid, incomprehensible in some ways, and I don't understand some of them myself. I do not think you can set an exact budget when you are experimenting. We all know you have to have some freedom in science in order to be able to make a mistake, learn from the mistake, and do something else.

I appreciate the \$150 million cut in the original Senate bill was halved to \$75 million in the conference. I hope NASA can work within that \$75 million and the rest of the budget for the space station to continue to move ahead. I am told by the people at NASA it will delay the space station, but it will certainly not kill it.

But I think the overriding issue is the one that was mentioned by the Senator from Missouri, and that is we need to have a new administrator appointed for NASA right away. Dan Goldin has done a terrific job, but he is leaving at the middle of this month. So we need to have that leadership.

I urge that the new leader of NASA look at what NASA can do. Let's decide, what is the science that we want to create? What is the goal of NASA? NASA has given us so much in the past, in new technologies that create new industries and new jobs. It has been part of the revitalization of our economy. We want to continue to push ahead. We want to continue to be the leader of the world in technology. To do that, we are going to have to have a clear vision for NASA and new leadership.

I thank the Senator from Maryland and the Senator from Missouri for working with me to make sure we do have the expenses that must be paid for NASA to stay in place. I think their concerns are valid, but let's not throw out the baby with the bath water. We cannot starve NASA if we are going to stay in the forefront of technology.

I look forward to working with the Senators from Maryland and Missouri during the next year, hopefully with a new Administrator from NASA, so we can have a clear vision and we can continue America's lead in technology that will have a major impact, not only on our future defense and our future programs, but also for our economy for the future.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I know the Senator from New Mexico wishes to speak. We have guaranteed him this time. I say to the Senator from Texas, she has been a long-standing advocate of the space program. I have traveled with her to Texas to see the first-class, world-class research that is going on there.

I, too, look forward to working with the new Administrator of NASA. We

should also recognize the current one because I think he has tried his best. But we have to have a NASA for the 21st century. I look forward to working with her to be able to do that.

Mrs. HUTCHISON. I thank the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I thank my colleagues for their important discussion. I am now pleased to yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator MIKULSKI and Senator BOND for their sensitivity to the issue of the new arsenic standards in water and its impact on thousands of communities throughout America.

Let me say, I have given up on attempting to challenge the 10-parts-per-billion standard the administration has now found to be the standard that is necessary in drinking water in America for the water to be healthy and safe. Saying that I cannot fight it any longer does not mean I agree with it, nor that I think the Congress can ignore the consequences of this new standard on many communities across this land.

More than 140 communities in my home State of New Mexico face this new burden at an estimated cost of more than \$440 million, from the smallest of water supply systems to the very largest in the city of Albuquerque.

Why would one be concerned enough about this to bring it to the floor of the Senate? It is a highly controversial issue as to whether the exact same standards on arsenic should apply in every community across the breadth and width of America because if you come from a State such as New Mexico, Nevada, West Virginia, Utah, Idaho, and many more, whatever human beings have lived in those parts of America, from the earliest arrival of men to the modern American living in these communities, there has been arsenic in the water that did not come from anything that human beings did by their actions or nonactions. Arsenic was in the water for all the time that humans have lived and found this water and drank of it. The arsenic was there because of the rock formations, that geology, over which the rainwater, after it rippled down, ran and percolated into lakes and reservoirs and areas underground which were then used for drinking water.

Many hundreds of thousands of people drank of that water with no ill effects. I know it is almost the wrong thing to say scientifically, but it seems as if it is factual that the citizens in those areas to which I have alluded, including my State of New Mexico, are healthier, whatever is allegedly the damage that arsenic in the water produces.

In other words, the diseases that are attributable to having more arsenic in the water are present less frequently in

States such as mine than they are in other States that have not, for all this period of time, had drinking water which had naturally flowing arsenic as a component of the compound.

Since I believe that, it doesn't mean I am advising that we not follow the law. But what I am suggesting is that soon small, medium-sized, and large communities in all of these States, including Nevada, including West Virginia, including New Mexico, including Arizona and many others, are going to start getting the estimates as to how they make these small water systems, these medium-sized ones, and these large ones—how do you get them down to 10 parts per billion of arsenic. They are going to get these big estimates.

They are going to get estimates of rebuilding whole waterworks for this purpose. Then the citizens are going to be asking, after seeing the headlines: What is this all about?

What I think we should have done in this conference is we should have let the Department—the Environmental Protection Agency—which adopted the new standard, deal with it in a normal manner. Actually, they would have 6 years before the implementation date. But they could at least work with cities. They could perhaps work on waivers attributable to good research which said if they are given 2 more years, they are going to come out with new science and it is going to be much less costly to Las Vegas, NV, and Reno, NV.

I see my friend, the junior Senator from Nevada is here.

But we went one step further in this bill and we prohibited the Environmental Protection Agency from doing anything other than enforcing this standard, literally, specifically, no exemptions, no waivers.

I say to the two Senators who are managing this bill, the Chair and Senator BOND have been most understanding. They have both pledged if we can find a way to help with this, by either partial financing or in some reasonable way, they are going to do that.

I want to tell the Senate there is some exciting research going on. That is getting funded, too. So we might make a breakthrough where we don't have to clean the arsenic out of the water in the manner expected of us today. There will be a newer way, cheaper, more reasonable, and perhaps we can get something done.

To reiterate, I thank Senator MIKULSKI and Senator BOND for their sensitivity to the issue of the new arsenic standard and its impact on thousands of communities throughout the nation. I am not arguing against the new standard of 10 parts per billion, since the administration has announced that it will support this level of arsenic in our water. But, we all know that achieving this new level will cost literally billions of dollars for communities, most of which will never be able to afford the equipment to meet this standard by the year 2006.

I wish that we in the conference on VA-HUD could have addressed this

issue in a substantive fashion, perhaps by establishing direct funding to help these communities. We were not able to do so, but I am assured by the many Senators who agreed with me that this issue is critical. We must establish a new program to help through grants and loans the communities that face virtual ruin if they try to fund this new equipment themselves. More than 140 communities in my home state alone face this new burden, at an estimated cost of more than \$440 million.

I hope that my colleagues will join with me, and with others, like Senator REID of Nevada, as we try to forge a program as soon as possible, perhaps even later this session of Congress.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 1 minute.

Ms. MIKULSKI. Let me conclude by thanking the Senator from Missouri for all his help and cooperation, and his staff—all of whom were working on it. I take this opportunity to thank the people who worked directly with the bill, worked directly in the Senate.

There are a lot of people who work in this institution.

We are coming up on the second month anniversary of the aerial attack on the United States of America. I thank all the people here at the Capitol who continue to show up every day and every way to support us so we can keep democracy's doors open.

First, I thank our young pages. They are high school students. They could have gone back home and been prom queens and football heroes, but instead they chose to serve their country by being right here in this Chamber. We thank them for their support for us and the confidence their families showed in us.

All of the people who run the food service, who run the elevators, and who are trying to clean up the Hart Building need to be acknowledged. By supporting us, they really support democracy. As we pass this bill that honors America's veterans and protects our homeland security, I thank all the people from the pages to the elevator operators, to the carpenters, and so on, who just show up every day and help us keep democracy's door open and functioning.

I bring you the VA-HUD bill and say God bless the U.S. Senate and God bless America. Let's vote and pass this bill.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the

Senator from Georgia (Mr. CLELAND), the Senator from Vermont (Mr. LEAHY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "aye."

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. ENZI) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 87, nays 7, as follows:

[Rollcall Vote No. 334 Leg.]

#### YEAS—87

Akaka	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Edwards	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Landrieu	Thompson
Crapo	Levin	Thurmond
Daschle	Lieberman	Torricelli
Dayton	Lincoln	Warner
DeWine	Lott	Wellstone
Dodd	Lugar	Wyden

#### NAYS—7

Bayh	Gramm	McCain
Ensign	Helms	
Feingold	Kyl	

#### NOT VOTING—6

Boxer	Enzi	Miller
Cleland	Leahy	Voinovich

The conference report was agreed to. Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. REID. I move lay on that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak therein for a period of up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO MIKE MANSFIELD

Mr. KENNEDY. Madam President, all of us who knew and loved our former great Senate Majority Leader Mike Mansfield were saddened by his death last month. He was truly one of the all-time giants of the Senate, and he went on to serve with high distinction for many years as our Nation's Ambassador to Japan. His wisdom, his intelligence, his insights, his friendship, his fundamental fairness, and his extraordinary humility combined to make him a leader of uncommon vision and ability during his long and brilliant and historic service to the Senate, to the people of Montana, and to the entire country.

On October 10, at a beautiful service for Senator Mansfield at Fort Myer Memorial Chapel, his former Senate assistant, Charles Ferris, delivered an eloquent eulogy that touched us all and reminded us again of the many reasons why we loved and admired Mike Mansfield so deeply. I know that the eulogy will be of interest to all of us, and I ask unanimous consent that the eulogy be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

#### EULOGY DELIVERED AT THE FUNERAL OF MIKE MANSFIELD

(By Charles D. Ferris, October 10, 2001)

Thank you one and all for being here. A quiet giant is gone. And in the spirit in which he lived, Mike Mansfield would be embarrassed by inconveniencing so many but privately very grateful to each of you. And a special thanks to Father Monan, the Chancellor of Boston College. Mike received an honorary degree decades ago from Boston College and was the first recipient of their Thomas P. O'Neill Distinguished Citizen Award in 1996. He had a soft spot for Boston—he referred to Boston as the Butte of the East—an expression of great affection—for Butte had a hold on his heart. It was where he met Maureen.

And during 67 years of marriage, Maureen was to him what Abigail was to John Adams—a loving partner in a marriage of equals based on respect for each other's judgment and intelligence, with equal participation in all decisions, professional as well as personal.

How does one talk about the life of such a great man who was so reluctant to talk about himself? Any of the hundreds of experiences he shared with me and with so many of you would be a story worth telling. But most of the stories must be for another time, for the Irish wake we will conduct for him in our memories and hearts will never end.

He left the world as he lived in it, with the least possible fuss and absolutely no nonsense. His hospitalization was blessedly short, his mental capacity and condition unimpaired until the last three days when he gracefully slipped deeper into the last sleep. He gave his daughter Anne and granddaughter Caroline and others of us who loved him time to prepare ourselves and say goodbye. Till the end, he conducted himself with character and class, a sense of dignity and a lifelong sensitivity to others.

My sadness today is overwhelmed by the surge of gratitude for the things we shared that will be a part of me and my family forever. Thirty-eight years ago, he plucked me from the Justice Department where I was a happy and content trial lawyer. I don't know

to this day how I got the job. I had never met him before that day. He was anxious about the Civil Rights legislation coming over from the House—the Senate Judiciary Committee for decades being a graveyard for civil rights bills. As he talked, I wondered how I could ever connect my specialty in Admiralty law with the challenge he was describing. Thankfully, I didn't try. I just told him that I didn't know exactly how I could be helpful but, if he wanted me, I would do my best. After we spoke for about 25 minutes—which I would soon learn for him was a filibuster—he asked me to start the following Monday. Mike Mansfield was a "yep, nope, don't know, can't say" type of guy. My winning argument must have been admitting I didn't know. Over the years, I learned how clearly he detected and how strongly he reacted to any and all variations of the snow job. For whatever reason, his decision changed my life as he changed the lives of all who shared time with him. I look back and wonder if he hadn't taken that leap of faith, I would today be a GS18 step 32 at the Justice Department.

But, by my good fortune and his hasty judgment, I was graced with the opportunity to observe him—and learn from him, as I never could from any book, the meaning of decency, integrity, humility, of perspective, patience, and honor. Mike Mansfield exhibited all these rare qualities in full measure—and with it all, he was also the wisest man I have ever met.

His mother died when he was 7 and he had a rocky childhood until he finally joined the Navy at age 14, committing probably the only deceptive act in his life—presenting a document that declared he was 18. After the Navy, it was the Army and, after the Army, it was the Marines (he obviously got all his indecision out early in life). The Marines sent him to the Philippines and China. Thus began his lifetime interest and study of East Asia. But he had no formal education so he returned to work in the copper mines in Butte. Then, at the urging of his new found love Maureen, he enrolled at the Montana School of Mines as a special student, concurrently taking courses to earn his high school diploma; transferring a year later to the University of Montana, where he won his BA and high school diploma simultaneously in 1933. A Masters Degree followed, then a teaching position at the University, which was his calling until elected to Congress in the Fall of '42, then the Senate in the Fall of '52, Majority Whip in 1957 and Majority Leader in 1961.

Mike Mansfield was a distinctly different Leader than his predecessor. He never twisted an arm but he touched the conscience of his colleagues. He won them over by his openness, his character and his reason. He transformed a Senate of power brokers into a Senate of equals. His was a leadership rooted in clarity of motive, honesty of purpose and respect of his fellow Senators.

And he led it to shape an America of greater equality. He was a shaping force of the New Frontier and the Great Society. He was at the helm of the Senate at the height of fundamental achievement—the Nuclear Test Ban Treaty, the Civil Rights Act of 1964, the Voting Rights Act of 1965, the passage of Medicare, federal aid to education, the 18-year-old vote—all deeply controversial at the time, many requiring the then-dreaded two-thirds cloture vote. All this and more was written in American life and law—and, in each instance, he made sure a different Senator received the lion's share of the accolades. Mike Mansfield always gave the credit to others; his satisfaction came from within; his approbation from Maureen. Yet, each time, Mike Mansfield's leadership was the hinge of history: he was the man without

whom the achievements might well have been different—in all likelihood, at least greatly lessened. He was the strong gentle wind that set the climate of the Senate. He was the essential chemistry of that Body. I say that as one who observed the entire process closely from the wings.

During the months of daily backroom negotiations on the Voting Rights Act in 1965, a disgruntled Chief of Staff for a Midwestern Democrat complained about holding the daily meetings in Everett Dirksen's office, with the press conference right outside every day at 4 p.m. Everett Dirksen was given center stage by the Boss, who was content to simply stand there and second Dirksen's loquacious progress report. The Chief of Staff pleaded to have at least half the meetings in the Majority Leader's office and hold the press conferences there so the office nameplate of the Majority Leader would stamp the photos and TV coverage of the day. I thought this a perfectly reasonable request and brought it to the Boss, whose response was "Charlie, last year the Republican Party drifted far from the mainstream during the Presidential election. If the public can see the Republican Leader each day reporting on the progress of what will hopefully be the most significant civil rights legislation ever, it will be very beneficial for the country to grasp that this bill was being drafted by both parties, even in an overwhelmingly Democratic Congress." And so it was; and for me, another lesson in perspective, in wisdom.

Mike Mansfield's fairness was never questioned on either side of the aisle. I recall a freshman Senator with an important amendment—important to him politically and to his state almost exclusively—that he had already announced he would offer to a pending bill. But with some swift parliamentary gymnastics, the managers raced the bill to final passage. The freshman Senator had been left high and dry and certain to be embarrassed back home. Mike was not on the Senate Floor for the parliamentary sleight of hand but, once summoned, he exhibited with few words and mostly by a stern look his sense of outrage at the unfairness of what had happened. He rescinded by unanimous consent the passage of the bill and the freshman Senator had his day. I don't remember the outcome, but it didn't matter; the opportunity was the victory. That freshman Senator, incidentally, was a Republican—he is still a Member of the Senate and he is here today.

He was our Ambassador to Japan during both the Carter and the Reagan Administrations, a post where he became in another great country what he was in our own—the most respected of leaders. Again he remained himself and redefined diplomacy. Early in his years as Ambassador, the American nuclear submarine *George Washington* violated the law of the seas. It surfaced and sank a Japanese vessel in Japanese waters, tragically causing loss of life, a most embarrassing and politically explosive incident. In a world where debate over words like regret, sorrow, excuse or apology can take weeks and months to be decided, at his own instigation and insistence, Ambassador Mansfield delivered a note of apology to the Japanese Foreign Minister. He asked, however, most uncharacteristically, that the TV cameras be permitted to remain in the room while he submitted the written apology. Again in character, actions over words, he bowed deeply below the waistline in presenting the official government position. As he knew, this symbol in the Japanese culture has great significance. The sincerity and depth of the apology was visually conveyed. That five seconds was played and replayed on Japan's TV stations many times over—obviously seen by everyone in Japan with a tele-

vision. The political issue ceased to exist. Again, few words—great action—achieved goal. I don't doubt that his 12 years in Tokyo were characterized with other telling examples.

In the last decade of his life, after he returned from Tokyo, I was blessed with the good fortune of becoming Mike Mansfield's good friend. We shared wonderful moments together and our almost daily visits were a ritual we both became addicted to. When the end came on Friday morning, I was filled with sadness for an irreplaceable loss, but full of gratitude for the friendship and love and the lessons on how to live.

At the hospital three days before he died, he was resting comfortably, his eyes closed. He had been informed the day before that he was on his final lap. I went to his bedside, and took his hand and quietly asked how he was doing. He opened his eyes, strained to focus, and said, "Oh, Charlie, how are you? A moment later, "What day is it?" Monday, I said. A short pause, and then, "How did our little giant do yesterday?" Knowing, of course, he was talking about Doug Flutie, I said he won. They're now 3-0. He smiled and said, "If they go 4-0, he should own the team."

It was as if this were a normal day, another visit, nothing unusual. In looking back, this final chat I believe was much more. He was not a man of idle gestures or wasted words. He knew the wheels were about to touch down. But like remaining in the background at joint press conferences, or bowing below the waist to the Foreign Minister or with a stern look repairing a parliamentary abuse, I believe he was conveying a message. That he was mentally comfortable and spiritually content; that he had no fear about what lay beyond the horizon. In effect, he remained a mentor to the very end—still more interested in giving comfort than seeking it—teaching again by example the final lesson of dying with serene dignity.

Now what we have left are indelible memories and his shining example. But how much more that is than most people, not just politicians, ever give. He left a deep imprint on the history he once taught and every person he ever met.

Mike has gone to Maureen. Together again with the love of his life. But he will always be with all of us who knew him—who were directed by his example, honored by his friendship—blessed by his life and appreciative of his love.

In the world where politics is so often so self-regarding and so many so self-absorbed, Boss, you set a different, higher standard. You tapped er light but left the deepest imprint.

There will never be another like you.

You will always be a part of my life.

#### VETERANS DAY

Mr. SPECTER. Madam President, Sunday is Veterans Day, a day dedicated to honoring the brave men and women who have served in the armed forces of this great Nation. Over 26 million men and women living today have answered their Nation's call to defend the ideals, values, and liberties we Americans hold dear.

This Sunday will mark the 63rd anniversary of the creation of the first official holiday honoring veterans who, like my father, Harry Specter, served in World War I. Unfortunately, it will also mark the 3-month anniversary of the horrific attacks of September 11, attacks which were directed at the

same ideals, values, and liberties millions of Americans have fought so bravely to defend. As ranking member of the Committee on Veterans' Affairs, I wish to express my deepest gratitude and appreciation to the veterans of wars past—and to those who are engaged today in fighting this new war against terrorism.

I am proud of what has been accomplished in Congress in recent years to honor America's veterans. We have expanded educational benefits, improved life insurance coverage, and opened new national cemeteries. And we have worked hard to increase funding for VA medical care. We intend to build on these accomplishments with further improvements in VA services and benefits. I thank my colleagues for their past support, and I urge them to continue in their steadfast support for veterans. Very few things we do here are more important.

Whereas Memorial Day is dedicated to remembering those who made the ultimate sacrifice for their country, Veterans Day is dedicated to acknowledging the commitment and devotion to duty millions of former soldiers, sailors, airmen, and marines made to this great Nation. Veterans are the best of America—people who, through sacrifice, dedication, and love of country, protected our freedoms, liberties, and way of life. This Sunday I ask every American to join me in honoring them. I also ask that we take a moment to acknowledge and thank the warriors of today who are the veterans of tomorrow.

#### ENHANCING SECURITY OF U.S. BORDERS

Mr. DEWINE. Madam President, as a member of the Judiciary Committee Subcommittee on Immigration; the Select Committee on Intelligence; and the Judiciary Committee Subcommittee on Technology, Terrorism, and Government Information, I am committed to improving the integrity of our immigration system. My positions on these committees also have given me an understanding of the unique interrelationship between immigration, national security, and law enforcement.

I am especially interested in border security issues. The tragic September 11 bombings have made it clear that we must improve our law enforcement and intelligence systems to enhance public safety and national security, particularly at our borders. I am pleased that two bills have been introduced to revise our immigration and visa system to enhance our border security. The chair and ranking member of the Immigration Subcommittee, Senators KENNEDY and BROWNBACK, introduced S. 1618, the "Enhanced Border Security Act." The chair and ranking member of the Technology and Terrorism Subcommittee, Senators FEINSTEIN and KYL, introduced S. 1627, the "Visa Entry Reform Act."

The Kennedy-Brownback bill emphasizes an immigration approach, while the Feinstein-Kyl bill reflects a keen understanding of the needs of law enforcement. While there are a few overlapping, even conflicting, provisions in these bills, I think that the sponsors have some excellent ideas and are clearly headed in the right direction. Both bills seek to improve data sharing between agencies that are responsible for protecting our borders.

At the same time, I think it is very important that we do not "reinvent the wheel." In the recently passed counterterrorism law, "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", USA PATRIOT ACT, Congress passed a provision of mine to demonstrate how we can expand the Integrated Automated Identification System to help secure our borders. We already have the technology available to pre-screen, identify, verify individuals, and share information through the FBI's fingerprint database. We ought to leverage our previous investment in this system.

Specifically, if someone is on an international "watch list" or "wanted" in connection with a criminal or intelligence investigation in the United States, we need to know this information. I believe our decisions as to whom we allow to enter and stay in our country are only as good as the information upon which we base our decisions. My provision in our new counter-terrorism law requires the FBI to report to Congress on how its fingerprint database and other systems can be used to address this problem.

Again, I anticipate that these bills will be reconciled into a comprehensive border security bill. I hope to work with the sponsors of both bills and help bridge the gaps.

#### DOMESTIC TRAVEL AND TOURISM INDUSTRY

Mr. KYL. Madam President, as my colleagues know, Senator ZELL MILLER and I have introduced bipartisan legislation to help our domestic travel and tourism industry recover from the devastating effects of September 11. I believe that we must focus an emergency economic stimulus package on the sector that has been most harmed: our travel and tourism industry. If we are to prevent thousands of bankruptcies, hundreds of thousands of lost jobs, and a host of indirect consequences to the rest of the economy, it is essential that we provide some immediate help to the travel and tourism industry.

The most important element of the legislation would provide a temporary \$500 tax credit per person, \$1,000 for a couple filing jointly, for personal travel expenses incurred by the end of the year. This temporary measure will help encourage Americans to resume their normal travel habits. Unlike general rebate checks to taxpayers, a tax credit conditioned on travel expenses en-

sures that the money is spent on a specific activity, in this case an activity that will generate positive economic ripples throughout the entire American economy. It will also help create confidence and encourage Americans to get back on airplanes.

Since business-travel expenses are already deductible, temporarily restoring full deductibility for all business-entertainment expenses, including meals, that are now subject to a 50 percent limitation, also would help restore the mainstay of the travel industry: the business traveler.

In a recent letter to the President, the members of the Travel Industry Recovery Coalition endorsed the travel credit as well as elimination of the current 50 percent penalty on business meals and entertainment. I ask unanimous consent that the letter be printed in the RECORD.

I hope my colleagues will cosponsor S. 1500 and join in our bipartisan effort to preserve jobs and revive this vital sector of the economy by getting travelers traveling again.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 2, 2001.

The PRESIDENT,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the twenty-six member organizations comprising the Travel Industry Recovery Coalition representing all segments of our nations \$582 billion travel and tourism industry and listed in detail on the enclosed sheet, I write to thank you for encouraging Americans to travel again and for your Administration's ongoing efforts to make travel safe and secure. Working with your Administration, our industry has made progress ensuring that travel is safe and secure and in restoring consumer confidence in travel.

We are grateful for your leadership in expanding the low interest SBA Economic Injury Disaster Loan program to small business across the entire country. We also appreciate the congressional leaders who have expressed their strong support for an expansion of the net operating loss carry-back that will be of real benefit to our industry. Unfortunately, these important efforts have not been sufficient to encourage enough travelers to travel and thus to keep workers working. The state of our travel and tourism industry thus remains precarious.

We write to urge your Administration to support bipartisan legislation introduced in both the Senate and the House that would provide a \$500 per person (\$1,000 per couple) tax credit for travel booked by the end of the year. The proposed tax credit meets your Administration's central condition for inclusion in the economic stimulus package in that it would have an immediate and significant impact on the entire economy, and would not require a permanent change to the tax code (and thus would not affect future interest rates). We believe its enactment would generate \$50 billion in economic activity and 590,000 jobs over the course of the next year. We urge you to support this temporary travel tax credit to stimulate the economy, to preserve jobs, and to bring families together this year at Thanksgiving and during the December holidays.

We urge your Administration to support short-term measures that would eliminate the current 50% penalty on business meals

and entertainment expenses and to work with our industry on a comprehensive promotional campaign to encourage travel to and within the United States. We also ask your Administration to work with us in providing assistance to the valuable employees in our industry who have lost their jobs, face reduced hours, or face the imminent loss of their jobs if travel does not rebound quickly.

Thank you again for leading our country at this difficult time and for your Administration working with us to achieve our twin objectives to ensure safe traveling and restoring confidence in travel to and within America.

Sincerely,

WILLIAM S. NORMAN,  
President and CEO.

#### TRAVEL INDUSTRY RECOVERY, COALITION

##### Coalition Member and Key Contact:

Air Transport Association, Carol Hallett, President and Chief Executive Officer; American Association of Museums, Edward Able, Jr., President and Chief Executive Officer; American Bus Association, Peter Pantuso, President and Chief Executive Officer; American Recreation Coalition, Derrick Crandall, President, and Association of Retail Travel Agents, John Hawks, President.

American Society of Travel Agents, William Maloney, Executive Vice President and Chief Operating Officer; Association of Travel Marketing Executives, Kristin Zern, Executive Director; Carlson Companies, Marilyn Carlson Nelson, Chairman and Chief Executive Officer; Cruise Lines International Association, Jim Goddard, President, and Hospitality Sales and Marketing Association International, Ilsa Whittemore, Associate Executive Director.

International Association of Amusement Parks and Attractions, Brett Lovejoy, President; International Association of Convention and Visitors Bureaus, Michael Gehrisch, President and Chief Executive Officer; International Council of Cruise Lines, Michael Crye, President; National Association of RV Parks and Campgrounds, David Gorin, President, and National Business Travel Association, Marianne McInerney, Executive Director.

National Council of Attractions, Randy Fluharty, Senior Vice President, The Biltmore Company; National Council of Destination Organizations, Joe D'Alessandro, President and Chief Executive Officer, Portland Oregon Visitors Association; National Council of State Tourism Directors, Patty Van Gerpen, Cabinet Secretary, South Dakota Department of Tourism; National Tour Association, Hank Phillips, President, and Receptive Services Association, Michele Biordi, Executive Director.

Recreational Vehicle Industry Association, David Humphreys, President; Society of Government Travel Professionals, Duncan Farrell, General Manager; Student Youth Travel Association of North America, Michael Palmer, Executive Director, Travel Goods Association, Anne DeCicco, President; Travel Industry Association of America, William S. Norman, President and Chief Executive Officer, and United States Tour Operators Association, Bob Whitley, President.

#### 2001 CONFERENCE OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. CHAFEE. Madam President, recently the National Trust for Historic Preservation held its annual National Preservation Conference in Providence, Rhode Island. In tribute of my father, the late Senator John H. Chafee, the

theme of the conference was "Preserving the Spirit of Place" which honored one of the last speeches he gave before his death.

Particularly during this time of national turmoil, we recognize the importance of our sense of place as we move about our daily lives. Liberty and freedom unite all Americans, form our common heritage, and permit us to cherish our sense of place in the world.

The preservation of our Nation's historic buildings and districts is a way for us to acknowledge the events of America's rich past and immortal legacy. The restoration of a downtown square in Spokane, WA; the revitalization of an old fort in Salt Lake City, UT; and the renovation of historic homes in Providence, RI; these projects represent how American ingenuity and perseverance form the building blocks of our architectural and cultural heritage.

I would like to recognize the work of the National Trust for Historic Preservation and its dedication to revitalizing historic buildings across the Nation in order to preserve our spirit of place. I ask that President Richard Moe's speech at the 2001 Conference of the National Trust for Historic Preservation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

2001 PRESIDENT'S REPORT—NATIONAL PRESERVATION CONFERENCE

(By Richard Moe)

I'm very glad you're all here.

We've spoken and heard those words often in recent weeks, as we've sought comfort and reassurance in the presence of family, friends and colleagues. It's a sentiment that's totally appropriate here, because we are a family. That is really why I'm so glad you're here, so grateful that we can gather together, can strengthen and support each other as we try to make sense out of what has happened and try to figure out where we fit in the new world into which we've been thrust.

We've heard it said over and over: "Things will never be the same again." Thousands of lives have been changed forever. The skyline of our biggest city has been changed. It's probably no exaggeration to say that the very shape of our future has changed too—in some ways that we can already see and in others that aren't yet clear and we cannot yet see.

But some things remain intact—and maybe even stronger than before: our appreciation of the traditions and values that have shaped our country and that still shape our lives; the bravery, compassion and generosity that we demonstrate when our fellow citizens are in need; the sense of common purpose that unites us.

So much has changed since the morning of September 11—but one thing, above all, remains true and constant: The American spirit endures.

September 14—just 3 days after these terrible events—was the anniversary of the firing on Fort McHenry. That was in 1814. One hundred eighty-seven years later, we have all taken comfort from the same sight that inspired Francis Scott Key. On the tops of skyscrapers, in front of government buildings, on police cars and firetrucks and taxis, on the front porches of thousands of homes, on

millions of shirts and blouses and coats, draped on the blackened wall of the Pentagon, we all saw it: Our flag was still there.

That's proof that the American spirit endures—and you can find it on just about every block in every community in this country. This simple, reassuring fact provides a firm foundation, I believe, for the work we have to do.

In times like this, our first thoughts naturally are for the well-being of our families and our fellow citizens. But beyond these immediate personal concerns, I believe we have a specific and critically important responsibility as preservationists. We're all aware of the importance of healing the nation's physical wounds, of strengthening the nation's defenses—but we can't lose sight of the importance of nurturing the nation's soul.

In the context of this pressing need to heal and move on, our work as preservationists has an importance—a relevance—that is greater than ever before.

Think for a moment about where the blows fell on September 11. Not on missile bases or factories or power plants or shipyards. No, the targets were people and buildings that symbolize America's military and economic strength. Did the terrorists really believe that an attack on the Pentagon would bring our military to its knees? Or that destroying the World Trade Center would shatter America's financial structure? Probably not—but they recognized the enormous importance of symbols.

As preservationists, we recognize their importance too. We know that place has power.

We know that we can read about our history in books, but we also know that facts on paper are no more or less important than truth on the ground—truth made tangible in place.

History says, "This is what happened." Preservation says, "Right here"—and that simple addition gives our knowledge of history an immediacy that is absolutely essential if we hope to make an understanding of the past a springboard to a better future.

Similarly, we can learn about shared values from mentors at home, in a school or a house of worship, but those values take on a new and amplified reality when we can see them embodied in a place. Back in 1966, the visionaries who sought to define the work of preservation in the groundbreaking report *With Heritage So Rich* encapsulated this concept when they wrote that our movement's ultimate success would be determined by its ability to "give a sense of orientation to our society, using structures and objects of the past to establish values of time and place."

The places we cherish—the places that we, as preservationists, work to save—are symbols, but they are not abstractions. They are real and tangible. They surround, support and illuminate almost every aspect of our daily lives. And they embody our most fundamental values.

The nation's schools symbolize the value of education, the importance of good citizenship. Our courthouses embody our commitment to the rule of law. State capitols and city halls are monumental representations of the grandeur and stability of democratic government. Shrines like the Lincoln Memorial and the Statue of Liberty refresh the wells of patriotism that lie deep within all of us. Churches and synagogues and mosques symbolize our freedom to worship as we please. Barns and fields and farmhouses remind us of our strong ties to the land and summon images of the restless, adventurous spirit that pushed us across a continent. Main Streets from coast to coast are a bricks-and-mortar textbook on the virtues of hard work and free enterprise. Residential neighborhoods everywhere speak eloquently

about the things that we cherish most: community, family, home.

They are buildings, certainly. But they are much more than that. They are the places we depend on as anchors in a restless, uncertain world. They are the wellsprings of the sense of continuity that one historian has called "part of the very backbone of human dignity." They are the magnets that pull us together to commemorate, to celebrate, to mourn, to mark the major passages in our national life. They are, in effect, the story of us as a nation and a people—a powerful story written in wood and stone and steel.

We need them. Preservationists have been saying that for a long time, and now—probably more than ever before—people understand what we mean. A part of what makes us human is our need to belong to a specific place with a history, a geography and a set of values.

A nation at war needs these places more than ever. Arthur Schlesinger has written that the recent history of America is a story of "too much pluribus and not enough unum."

In times like these, unity is essential. An understanding of the history and values that we share is part of the cultural "glue" that binds us together, that keeps our society from cracking apart into dozens of separate pieces. If we're to meet the challenge of living in a changed world, it is imperative that we pledge our best efforts to recognizing and safeguarding the places that help give us a sense of community—and a sense of continuity.

We need these places—but we can lose them. We've always known they are fragile, but last month, in images that will stay with us for the rest of our lives, we were reminded of just how quickly and stunningly our symbols can be taken from us. For some time now, we've been saying that the National Trust's mission is to protect the irreplaceable. In the aftermath of September 11 we realize anew, with a terrible clarity, how important this mission is.

More than 150 years ago, the English artist and critic John Ruskin wrote, "Architecture is to be regarded by us with the most serious thought. We may live without her, we may worship without her, but we cannot remember without her." In times like these, we need to remember who we are. It's essential to remember the long process that made us Americans, to remember the struggles, the crises, the triumphs that we've known in the past—and to be sustained and empowered by that memory. This means that more than ever before, we preservationists must work to ensure that the places that embody what America stands for are kept safe, firm and alive so that we can continue to learn from them, be enriched by them, draw strength and inspiration from them.

So what happens now? It's a complicated question, but it has, I think, a deceptively simple answer: We go on. As individual Americans, we'll go on with our lives. As preservationists, we'll go on with our job, strengthened by a renewed conviction that our job is essential to the unity and well-being of the nation we love.

There is plenty of work to be done right now. There is an entire sector of a city to be repaired or rebuilt. There are thousands of businesses, institutions and individuals to be housed. Perhaps most important, there is a wound in the nation's soul to be healed.

It's an enormous job—and I'm very pleased to report that the National Trust has already rolled up its sleeves and started to work. Here's a quick snapshot of what we're doing:

The Trust is participating in a working group of 10 public- and private-sector organizations that will undertake a comprehensive,

coordinated effort to assess damage to historic buildings in lower Manhattan and deal with other preservation issues stemming from the tremendous damage in that area.

As an outgrowth of this collaboration with our New York partners, the National Trust is one of 5 organizations that have established the Lower Manhattan Emergency Preservation Fund, which will make grants to help alleviate the impact of the disaster and to stabilize, renovate, and restore damaged historic sites in Lower Manhattan. We've already pledged \$10,000 to this fund, and we're prepared to do more. The Lower East Side Tenement Museum, a National Trust historic site located within sight of Ground Zero, opened its doors to shelter those fleeing the financial district on September 11. Now, as part of its longstanding commitment to programs that promote cultural tolerance and understanding, the museum—with support from Trust employee contributions—is launching new initiatives focusing on understanding the Arab-American experience.

National Trust staff are also contributing to the Service Employees September 11th Relief Fund, established to provide assistance to the thousands of janitors, day porters, security guards, tour guides and other service employees working in the World Trade Center and the Pentagon who were either killed or injured in the attacks, or who are out of work indefinitely because of the damage to these buildings.

Anyone who wishes to contribute to these funds is certainly welcome to do so. Already we have collected more than \$11,000. We'll continue to increase this amount with your help tonight—in the lobby as you leave there will be volunteers accepting your contributions to this effort. Thank you in advance for your help. For future and ongoing contributions, you can get information about them at the National Trust programs booth in the Resource Center.

These efforts mark the mere beginning of what will be a long process of recovery and rebuilding. I'm convinced that it will challenge this organization and the preservation movement as a whole. Fortunately we are positioned to meet the challenge effectively. As you'll hear in a few moments, our financial base is strong and getting stronger. And our programs to help Americans appreciate their heritage and strengthen efforts to save it are meeting unprecedented success.

My confidence in the National Trust's ability to meet this challenge extends to the preservation movement as a whole. We've never been stronger. Historic sites across the country are doing a better job than ever of linking us with our past and reminding us of its relevance to our daily lives. There are more—and more effective—statewide and local organizations than ever before. Together, we're making a real difference—a difference you can see in landmark buildings put to innovative uses; in traditional downtowns given new economic life; in historic neighborhood schools adapted to provide state-of-the-art learning environments for today's students; in farmland and open spaces protected from wasteful sprawl; in historic sites where interpretive programs bring our heritage alive; and in communities rescued from decades of disinvestment and deterioration.

Because of the great strides our movement has made in recent decades, it's hard to find a city or town where preservation's benefits aren't clearly and proudly—and even profitably—displayed. This widespread success is helping vast new audiences learn what you and I have always known for a long time: that preservation is not about buildings, it's about lives.

It's about saving historic places not just as isolated bits of architecture and landscape,

not just as lifeless monuments, but as environments where we can connect with the lives of the generations that came before us, places where we can build and maintain safe, rich, meaningful lives for ourselves and the generations that will come after us.

Our strengths, our skills, our experience and our unique perspective will see us through this challenge. But I am convinced that it won't be easy—and what's more, it certainly won't be quick. In the altered context in which we now operate, many questions remain to be answered: How will the changing and uncertain state of the economy affect us? How will the events of September 11 affect the growing momentum of the back-to-the-city movement? Can we take steps to ensure that smart-growth issues such as improved passenger rail and mass-transit options and increased development density are included in the national recovery agenda?

Can we develop innovative, yet sensitive ways to address the very real concerns for public safety in historic buildings and gathering places? How can we best help the public understand the importance of a strong commitment to historic preservation as an essential component of building our national unity?

These are tough questions. There are dozens more, all equally challenging. We'll need time and perspective and lots of serious conversation before we find answers to them. This conference provides an excellent forum for starting those conversations. As Americans, one of our greatest strengths is our identity. Knowing who we are makes us strong. Knowing where we came from makes us confident. Knowing the legacy we have inherited makes us part of a powerful partnership between past, present, and future.

Passing on that knowledge—of who we are, where we came from and what is the legacy that shapes and enriches us—is what preservation is all about. It's what makes preservation such important—and yes, noble—work. The Talmud tells us, "We do not see things as they are. We see them as we are." As preservationists, we have a unique way of seeing things. Our vision can help America find its way through the uncertainties of this new world. We will pass on that vision.

As preservationists, we understand the strength that comes from a shared sense of the rich heritage that is ours as Americans. We will pass on that heritage—and the strength that grows with it.

We know that our work is America's work. We know that the heritage we share is worthy of our best efforts to save it. We know that the skills and vision we offer have never been more important—or more needed. We have an enormous job to do—but it's the same job we've been doing for a long time, and we know how to do it well.

So let us go forward with a renewed sense of purpose. The heritage we preserve will sustain us in these very different and trying times. The heritage we pass on will enrich and inspire generations of Americans to come.

May God bless our work as preservationists. May God bless America.

Thank you.

#### ADDRESS TO THE NATIONAL PRESS CLUB BY WINSTON S. CHURCHILL

Mr. CLELAND. Madam President, I rise to day to pay tribute to a great friend of the United States and a man whose unique perspective on the current events of the world is worthy of our attention. Recently, I had the rare honor of spending some time with Win-

ston S. Churchill. His grandfather, former Prime Minister Sir Winston Churchill is a hero to many Americans including myself. Sir Winston's leadership of the British people in their darkest hours are a source of inspiration for all of us in these uncertain times. His picture hangs on the wall of my office and a recording of his speeches remains ready to be played in my car should I need inspiration for the day ahead. In the face of adversity and as his country was faced with the most brutal of all enemies, Churchill steadfastly "held the line." In October of 1941, just over 60 years ago, Churchill spoke these words to the young men of Harrow school:

Never give in, never give in, never, never, never, never. In nothing, great or small, large or petty—never give in except to convictions of honor and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy.

Those words inspire me to keep fighting in the Senate for what is right and for what is good. Those words inspire me to keep working toward the righteous goal in the conflict in which the United States and the United Kingdom are fighting today. I have no doubt that, were Sir Winston alive today, he would be standing beside our country in this crisis, just as Prime Minister Blair has done.

Last month, at a dinner hosted by the Churchill Center, I had the honor of meeting with Winston S. Churchill. Just like his grandfather, Winston S. Churchill has led a remarkable life. His experience as a former war correspondent and Member of Parliament has, I believe, given him a unique insight into our current War on Terrorism. He has traveled the globe and has a deep understanding of the different peoples and cultures of our world. In particular, my colleagues may benefit from his interesting and thought provoking assessment of the current situation he made in an address to the National Press Club on October 11, 2001.

I ask unanimous consent this address be printed in the RECORD and, on behalf of the American people, I offer Winston S. Churchill my sincere appreciation for everything that he has done to further the "special relationship" between the United States and Great Britain.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFRONTING THE CHALLENGE OF TERRORISM (Address to the National Press Club, Washington, DC, on Thursday, 11 October 2001, by Winston S. Churchill)

I find it a remarkable honour, as a former war correspondent of the 1960s and early 1970s, to be your guest here today. At the time I received your invitation back in May, it was my intention to speak to you on the theme of the Special Relationship, which it was fashionable—especially in media circles—to regard as finished. Though that remains an underlying theme, the subject of my address to you today is: Confronting the Challenge of Terrorism.

Precisely one month ago today, the vilest and most devastating terrorist attack was

perpetrated against innocent civilians. Let there be no doubt: in striking at New York's Twin Towers and at the Pentagon here in Washington, the terrorists were striking at us all, all that is who value freedom, decency and democratic government.

I happened to be in New York at the time and watched in disbelief as, one after the other, these two proud icons disappeared from New York's skyline. I saw the courage of the men and women of New York's Fire and Police Departments and the calm resolve of the ordinary citizens in the face of terror, which came without warning out of a clear blue sky.

It evoked for me memories of wartime London. I was a Blitz baby, born in 1940, and my earliest memories are of bombs falling on London, of blazing buildings, of anti-aircraft tracer crisscrossing the night sky and of many a night spent in public shelters beneath the streets of London.

Indeed I understand that Mayor Guiliani, who has been such a tower of strength to New Yorkers in their hour of crisis, has become so fond of quoting my Grandfather, that he has earned the accolade of "Churchill in a ball cap". The words of Winston Churchill, in a speech to the House of Commons—following Hitler's orders to the German Luftwaffe to begin terror-bombing the civilian population of Britain—are indeed most apposite. They apply every bit as much to New Yorkers and the people of America today:

"[Hitler] hopes by killing large numbers of civilians, and women and children, that he will terrorise and cow the people of this mighty imperial city. . . . Little does he know the spirit of the British nation, or the tough fibre of the Londoners. . . .

"This wicked man, the repository and embodiment of many forms of soul-destroying hatred, this monstrous product of former wrongs and shame, has now resolved to try to break our famous island race by a process of indiscriminate slaughter and destruction.

"What he has done is to kindle a fire in British hearts, here and all over the world, which . . . will burn with a steady and consuming flame until the last vestiges of Nazi tyranny have been burned out of Europe, and until the Old World—and the New—can join hands to rebuild the temples of man's freedom and man's honour, upon foundations which will not be soon or easily overthrown.

The reference to "the temples of man's freedom" has a haunting echo about it, and I could not help but notice the date of that 1940 speech: poignantly, it was 11th of September.

However much we may wish our lives to return to normality, things can never be the same again. What happened on Tuesday, 11 September 2001, is something that has changed the lives of us all. There is a new sense of vulnerability and a realisation of how tenuous a hold each one of us has on life when—with barely a split second's warning—death can come upon us out of a clear blue sky. It is not just New Yorkers, Washingtonians or Americans, who have been touched by this outrage, but all of us, wherever we may live.

Jogging round London's Hyde Park the other day I noticed—just as I had in Central Park a few days earlier—how much more friendly we have suddenly all become. There was a smile or "good morning" from total strangers who, previously, would just have gone about their business like planets spinning in their own orbits, heedless of the rest of the universe. All at once we have come to realise how much we depend upon each other. More than ever before, we are extending the hand of friendship to total strangers.

Even at national level, new friendships and alliances are being forged, while old ones are

being put to the test. Suddenly President Putin is our friend and Russia has become our ally in encompassing the defeat of the Taliban in Afghanistan, giving its blessing to Uzbekistan providing a base for a major U.S. military build-up in what was a former Soviet republic. What we are witnessing is nothing less than a revolution in Russia's relations with the West. Even the People's Republic of China appears as an ally for, like Russia, she feels threatened by the spread of Islamic fundamentalism on her borders.

The 15 nations of the European Union have pledged their full support for America and the 19 NATO allies have vowed to stand right behind her. What this will mean in practical terms remains to be seen. As someone once very truly remarked: "It is only at the height of the storm, by the lightning's flash, that you can turn round and see your friends".

In recent years it has become fashionable among the chattering classes on both sides of the Atlantic to declare that the "Special Relationship" between the United States and Great Britain was something of the past, indeed effectively dead. Well, to paraphrase Mark Twain, events of the past month have only gone to show that reports of its death were "greatly exaggerated".

Today, as action continues against the Taliban regime of Afghanistan, United States and British forces stand shoulder to shoulder once again, united as never before. Britain has in place a military force of 24,000 Army, Navy and Air Force, deployed to southern Arabia. Our nuclear submarines, H.M.S. *Triumph* and *Trafalgar*, have already engaged the enemy with Tomahawk cruise-missiles, elements of our Special Air Service have undoubtedly, for some time now, been covertly on the ground inside Afghanistan, while our air and ground forces are standing by to attack.

Despite the brave words of support from other nations, it is likely, at the end of the day, that the bedrock for any military action in the prosecution of this war against terrorism—and of those states that harbour and support terrorists—will be the British/American alliance, just as it has been British and American pilots alone who, in the wake of the Gulf War and to this day, have risked their lives enforcing the "No-Fly" zones over Northern and Southern Iraq.

President Bush wasted no time in picking up the gauntlet cast down by the terrorists on 11 September, but perhaps not in the way that Bin Laden imagined. It was doubtless one of his prime aims to provoke the United States into a wild, furious reaction, which would—at a stroke—unite Islam and all Islamic states against America and, in the process, bring about the downfall of the West's friends in the Arab world, including the Saudi monarchy and the Gulf Sheikdoms, and the pro-Western governments of Pakistan and Egypt.

But the President, while declaring war on terrorism and its supporters, has been meticulous and measured in his response. Thus far, the Administration has handled this unprecedented crisis with consummate skill. He has rightly—and repeatedly—gone out of his way to stress that this is a war against terror, not against Islam.

He has emphasized that the more than 6 million Moslems and Arabs living in America are, overwhelmingly loyal, patriotic Americans, who love their adoptive country and who are appalled by the actions of those extremist fanatics who, in a telling phrase of the President, are trying to "hijack Islam" for their own purposes. The President has set a fine example by extending the hand of friendship to members of America's Islamic community, as has Prime Minister Blair to the 2 million Moslems living in Britain.

It is clear that, if we are to win this war against Islamic fundamentalist terrorism—and, though we are told that such terminology is not politically correct, I use those words advisedly—it will only be if we can win and retain the support of moderate Islamic states, and the hearts and minds of the overwhelming majority of Moslems in our own countries and around the world.

It is essential that we persuade them to join with us in lancing this boil of fanatical extremism and to destroy the incubus of terror that poses such a mortal threat, not only to Western civilisation, but also to all moderate Arab and Islamic states who are, each and every one of them, our natural partners in this battle. This explains the trouble and effort the Administration has taken to build up a coalition of nations to fight the menace of terrorism. Their support is vital—and I believe it can be won.

But we must also realise the extent to which we are walking on eggshells. In my days as a war correspondent in the 1960s, I saw both sides of war. I have seen it from the cockpit of U.S. Air Force Phantom and Super Sabre fighter-bombers, while taking part in air strikes in Vietnam.

I have also, at the time of the Nigeria/Biafra civil war, been on the receiving end. I have seen the bomb-bay of an Iluyshin bomber opening up above my head and the bombs cascading down to land a few hundred yards down the street on a maternity clinic, killing dozens of nursing mothers and their babies.

Together with New York Times correspondent, Lloyd Garrison, I had the horrific task of reporting and photographing the consequences of a deliberate raid by another Iluyshin on a market place containing some 2,000 civilians, the great majority of them women and children. It was by far the most harrowing task I have ever undertaken in my life and one, which I shall never forget.

Those were, of course, the days before the omni-presence of CNN, and before such graphic scenes of horror could be transmitted to our homes in real time. Today it would take only one or two such outrages, in which a school or hospital was hit by accident, for Mr. Bush's elaborately constructed coalition of moderate Islamic states to fall apart and for support to start ebbing away in Europe and even on the home front.

It is impossible to guess how long it will take to apprehend Bin Laden and his henchmen, and bring them to justice. That it will be done in time, I have no doubt. Meanwhile the overthrow of the cruel, barbaric Taliban regime, which harbours him, is clearly the top priority. This is an alien regime, established only in the past five years, with funding and arms from Arab countries, by way of Pakistan, which acted as "godfather" to the Taliban.

Their rule has been so brutal and disastrous that an estimated one in four Afghans have fled as refugees to Iran or Pakistan, creating a massive humanitarian crisis in the region. Once the Taliban have been overthrown, a high priority must be to cut off the funding, not only for the terrorists, but also for the fundamentalist madrassas—the theological schools, established in numerous countries around the world, where the gospel of Islamic purity and anti-Western hatred is preached.

Unbelievable though it may seem, no country has been more responsible for this than Saudi Arabia—the West's principal ally in the Middle East. In order to appease and deflect criticism of their pro-Western leanings and opulent lifestyle, the Saudi ruling family—in an act of consummate folly—has poured vast resources into the establishment of these schools and religious universities, in their own country and overseas. They now

find that they are riding a tiger of extremist fundamentalism, entirely of their own creation, which threatens the very foundations of their hold on power. As a result, today almost half the young Saudi males coming onto the jobs market have only religious qualifications, making them not only unemployed, but unemployable. In consequence, barely one in four is able to find a job. The rest make a fertile field of disaffection, from which bin Laden is able to recruit new generations of suicide-bombers, hijackers and terrorists, and it is no coincidence that many of last month's hijackers were Saudis.

More horrifying yet, if estimates attributed to the CIA are to be believed, in recent years some 70,000 militants have passed through bin Laden's terrorist training camps in Afghanistan and are currently dispersed across no fewer than 55 countries around the world, including our own. New attacks are inevitable—and some, undoubtedly, will succeed—before this hydra-headed monster of international terrorism is destroyed.

While it will be difficult for the Saudi government to bring it's extremist theological schools under control and integrate them within the state education system, if it fails to do so, it is inevitable that the Saudi ruling family will, sooner or later, forfeit its hold on power, and be drowned by a tidal wave of fundamentalism.

Beyond that, intense international and economic pressure will have to be brought to bear on those powerful Islamic states that provide bases and backing for terrorism, especially Iraq, Iran, Syria and Sudan, some of which—such as Iraq—have been working for 30 years or more on obtaining or developing weapons of mass destruction.

Indeed, as long as twenty years ago, I was the first to report in the London Times that the French Government, in an act of breathtaking irresponsibility, had sold Saddam Hussein 72 kilograms—or some 160 lbs.—of weapons-grade uranium, sufficient for the manufacture of three nuclear bombs. It was this that, a few months later, prompted the long-range strike by Israeli Air Force jets that took out Saddam's Osirak reactor.

Some of these rogue states are already in a position to equip terrorists with weapons of mass-destruction, especially with agents of chemical and biological warfare. Meanwhile, they are themselves working on—or seeking to acquire from North Korea—intermediate or long-range missiles, with which to threaten their neighbours, including Israel and Saudi Arabia, as well as Western Europe.

It would be a mistake for the United States and her close allies to set out their full agenda but, where peaceful means prove inadequate to ensure the ending of these programmes that potentially menace millions of innocent civilians, we shall have no choice but to do so by military action.

There will be those, both in America and in Britain, who will not have the stomach for such a fight, and there will be many of our coalition partners, not only in the Middle East, but also in Europe, who will fall by the wayside as the campaign expands in scope. But, come what may, we must have the courage and resolve to see this through to victory.

Horrific though the attacks were, that were wrought against innocent civilians on 11 September, can anyone doubt that what we saw in New York and Washington a month ago was but a foretaste of far, far worse to come?

It is certain that if we do not have the courage to extirpate this cancer of terrorism once and for all, that our children and grandchildren will live to see whole cities consumed by fire and large numbers of their fellow-citizens struck down by devastating, and

incurable, plagues. We shall not be talking of a few thousands or tens of thousands of civilians being blown away in an instant, but rather of millions. This has indeed been a wake-up call from hell and we have no option but to heed the warning.

At the same time it is vital that we appreciate exactly what we are up against and just how high are the stakes for which we are playing. In the 1930s it was fashionable to dismiss Hitler's declared aims as the ravings of a mad man. He was not a mad man. He was a deeply flawed genius, who came within a hair's breadth of victory.

By the same token, it would be a terrible mistake to dismiss Osama bin Laden as no more than a mad mullah hiding out in some cave in Afghanistan. He is a brilliant but evil man, with a limitless well of hatred for everything that constitutes the values of Western society, all that we hold dear: freedom, democracy, prosperity and tolerance.

His aim is to garner the resources that would enable him to inflict infinitely greater damage upon the United States and her allies, including especially Israel. Already bin Laden and the Taliban, which works hand-in-glove with him, control 70 percent of the world's opium production. By way of example, 90 percent of heroin sold on the streets of Britain today comes from Afghanistan and it is this that constitutes the primary source of funding for his campaign of terror against the West. But his ambition ranges far higher. Can anyone doubt but that he has his sights set on the nuclear arsenal of Pakistan and the oil wealth of Arabia?

The importance of seeing this war through to victory cannot be overstated. The price of failure would be terrible: far, far more terrible than stopping half way to Baghdad, as we did in the Gulf War. If, for example, faced with mounting casualties—to our forces in the field and to our civilian population at home, as a result of further terrorist outrages—we were to falter or fail, let no one doubt what would be the consequence.

Were we to withdraw leaving the job unfinished, bin Laden and his henchmen would be the heroes of Islam. America and her allies would be seen as no more than paper tigers. President Pervaiz Musharraf and the pro-Western elements in Pakistan's armed forces would be swept aside, while those who have long had close links with the Taliban would seize power. At a stroke, bin Laden would have secured control of Islam's one and only nuclear power, estimated to have some 30 tactical nuclear warheads each with the power of 2½ Hiroshima bombs.

Nor would that be the end of his ambition. He has avowed his determination to purge his native Saudi Arabia of the infidel American presence which, in his eyes, defiles the Holy Land of Islam. A crisis in the ruling Al Saud dynasty, could pave the way for their violent overthrow by fundamentalist forces linked to bin Laden.

Armed with the oil-wealth of Arabia—amounting to one quarter of the world's reserves—the drug-wealth of Afghanistan and the nuclear capability of Pakistan, in addition to a terrorist network with tentacles in 55 countries, bin Laden would constitute a desperately grave threat to the entire Western world. Now that battle is joined, we have no choice but to see it through to victory, however long the road, however great the cost.

Since the words and spirit of my Grandfather have been invoked already many times in the past month, I can do no better than to conclude with a quote from Winston Churchill's first address to the House of Commons on becoming Prime Minister in May 1940:

"You ask what is our policy? I will say: It is to wage war by sea, land and air, with all

our might and with all the strength that God can give us: to wage war against a monstrous tyranny, never surpassed in the dark, lamentable catalogue of human crimes. That is our policy.

"You ask: What is our aim? I can answer in one word. It is victory. Victory at all costs, victory in spite of all terror. However long or hard the road may be; for without victory there is no survival."

I say to our friends and allies in Europe and around the globe, this is not America's battle alone; it is a battle on behalf of the whole world, and on behalf of generations yet unborn. Together we have overcome far more powerful enemies than those that assail us today. I have every confidence that, in confronting this new challenge, America and Britain—together with our allies—can prevail and shall prevail, just as together we have triumphed in the past.

## ADDITIONAL STATEMENTS

### 30TH ANNIVERSARY OF CENTER POINT

• Mrs. BOXER. Madam President, I would like to take this opportunity to bring to the Senate's attention the wonderful and necessary work of Center Point, Inc. in California. Center Point is preparing to celebrate its 30th anniversary of service to the community. This milestone is a testament to the success of its programs and the life affirming and life-changing nature of its mission. I could not be happier for Center Point CEO Sushma Taylor and the organization's dedicated staff and extended family.

Begun in 1971, in my home county of Marin, Center Point has since developed into a model community services provider, assisting at-risk families and individuals of all ages with issues ranging from drug and alcohol addiction, to homelessness, to HIV/AIDS, to job training. Each year it serves over 8,000 individuals through its residential, outpatient, housing and in-custody programs. These efforts not only serve to rescue individual lives, they have the power to heal families and ultimately transform whole communities.

I believe strongly in the work being done at Center Point and at similar facilities around California and the Nation. We need to encourage and enable these programs that are making a difference. I introduced my Treatment on Demand Assistance Act this year to do just that. My bill would double the Federal Government's funding for drug and alcohol treatment over 5 years, from the current \$3 billion to \$6 billion. It also provides for incentives to States that have instituted a policy of emphasizing treatment over incarceration for non-violent drug offenders.

Treatment works. When we invest in it and other programs proven to improve lives, we are investing in a safer, healthier future for us all. Center Point has been proving this for 30 years.●

# TRIBUTE TO SERGEANT JEFFREY HOJNACKE

• Mr. SMITH of Oregon. Madam President, I would like to take this opportunity to pay tribute to Oregon native, Sergeant Jeffrey Hohnacke, a member of the 3rd United States Infantry, better known as "The Old Guard." Sergeant Hohnacke's accomplishments while serving as a sentinel at the Tomb of the Unknowns personify the hallowed principles of duty, honor, and country. After joining "The Old Guard" in 1995, Sergeant Hohnacke performed his first "walk" at the Tomb of the Unknowns in Arlington National Cemetery in May 1996. Completely selfless and dedicated, Sergeant Hohnacke never missed a day of duty, and routinely filled in for others. On October 17, 2001, after over 5 years of duty standing watch over the most sacred of American shrines, Sergeant Jeffery Hohnacke completed his 1,500th and last "walk" at the Tomb of the Unknowns. To put this accomplishment into perspective, very few sentinels in the history of the Tomb of the Unknowns have reached the coveted "1000 walk" mark, and no one has come close to the 1,500 walks completed by Sergeant Hohnacke. This is a record that will undoubtedly stand for many years.

On behalf of a grateful nation, let the record show the Congress of the United States of America honors the selfless service and accomplishments of Sergeant Jeffrey Hohnacke, an American hero, patriot and "Iron-Man" of the Tomb of the Unknowns. •

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## CALENDAR YEAR 1999 REPORT ON ACTIVITIES UNDER THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966, THE HIGHWAY SAFETY ACT OF 1966, AND THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT OF 1972—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

*To the Congress of the United States:*

I transmit herewith the Department of Transportation's Calendar Year 1999 reports on Activities Under the National Traffic and Motor Vehicle Safety Act of 1966, the Highway Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act of 1972.

GEORGE W. BUSH.

THE WHITE HOUSE, November 8, 2001.

## MESSAGE FROM THE HOUSE

At 3:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints as the managers of the conference on the part of the House: Mr. KNOLLENBERG, Mr. ISTOOK, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. SWEENEY, Mr. VITTER, Mr. YOUNG of Florida, Mr. FATTAH, Mr. MOLLOHAN, Mr. OLVER, and Mr. OBEY.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints as the managers of the conference on the part of the House: Mr. REGULA, Mr. YOUNG of Florida, Mr. ISTOOK, Mr. DAN MILLER of Florida, Mr. WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. OBEY, Mr. HOYER, Ms. PELOSI, Mrs. LOWEY, Ms. DELAUNO, Mr. JACKSON of Illinois, and Mr. KENNEDY of Rhode Island.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4536. A communication from the Chief Counsel, Office of Foreign Assets Control,

Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Blocked Persons, Specially Designated Nationals, Specially Designated Terrorist, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Additional Designations of Terrorism-Related Blocked Persons" received on November 6, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-4537. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to authorize appropriations for hazardous material transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-4538. A communication from the Principal Deputy General Counsel, Department of Defense, transmitting, a draft of proposed legislation entitled "Personnel Pay and Qualifications Authority for Department of Defense National Capital Region Civilian Law Enforcement and Security Force"; to the Committee on Armed Services.

EC-4539. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled "Money Laundering Act of 2001"; to the Committee on the Judiciary.

EC-4540. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of \$50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC-4541. A communication from the Assistant Secretary of Legislative Affairs, Department of Defense, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of \$50,000,000 or more to Norway; to the Committee on Foreign Relations.

EC-4542. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of \$50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC-4543. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation entitled "Managerial Flexibility Act of 2001"; to the Committee on Governmental Affairs.

EC-4544. A communication from the Deputy Associate Administrator of the Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001-01" (FAC 2001-01) received on November 6, 2001; to the Committee on Governmental Affairs.

EC-4545. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "HHS Bioterrorism Prevention and Emergency Response Act of 2001"; to the Committee on Health, Education, Labor, and Pensions.

EC-4546. A communication from the Administrator of the General Service Administration, transmitting, a report relative to a lease prospectus and a design prospectus; to the Committee on Environment and Public Works.

EC-4547. A communication from the Deputy Administrator of the General Service

Administration, transmitting, pursuant to law, the Report of Building Project Survey for Colorado Springs, CO; to the Committee on Environment and Public Works.

EC-4548. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-155 "Advisory Neighborhood Commissions Annual Contribution Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4549. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-154 "Cooperative Purchasing Agreement Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4550. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-156 "Insurance Economic Development Temporary Amendment Act of 2001"; to the Committee on Governmental Affairs.

EC-4551. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-152 "Closing of a Public Alley in Square 2140, S.O. 99-228, Act of 2001"; to the Committee on Governmental Affairs.

EC-4552. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-153 "Closing of a Portion of a Public Alley in Square 209, S.O. 2000-48, Act of 2001"; to the Committee on Governmental Affairs.

EC-4553. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System for Hospital Outpatient Services: Criteria for Establishing Additional Pass-Through Categories for Medical Devices" (RIN0938-AK59) received on November 6, 2001; to the Committee on Finance.

EC-4554. A communication from the Regulations Coordinator, Center for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Announcement of the Calendar Year 2002 Conversion Factor for the Hospital Outpatient Prospective Payment System and a Pro Rata Reduction on Transitional Pass-Through Payments" (RIN0938-AK54) received on November 6, 2001; to the Committee on Finance.

EC-4555. A communication from the Regulations Coordinator, Center for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Revisions to Payment Policies and Five-Year Review of and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 2002" (RIN0938-AK57) received on November 7, 2001; to the Committee on Finance.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002" (Rept. No. 107-95).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1319, a bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. (Rept. No. 107-96).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 23: A resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1094: A bill to amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 1459: A bill to designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse".

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 1630: A bill to extend for 6 additional months the period for which chapter 12 of title 11, United States Code, is reenacted.

By Mr. CONRAD, from the Committee on the Budget, unfavorably, without amendment:

S.J. Res. 28: A joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

\*Marvin R. Sambur, of Indiana, to be an Assistant Secretary of the Air Force.

\*Mary L. Walker, of California, to be General Counsel of the Department of the Air Force.

\*Sandra L. Pack, of Maryland, to be an Assistant Secretary of the Army.

\*Dale Klein, of Texas, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

By Mr. WARNER for the Committee on Armed Services.

\*R.L. Brownlee, of Virginia, to be Under Secretary of the Army.

By Mr. JEFFORDS for the Committee on Environment and Public Works.

\*William Baxter, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 2011.

\*William Baxter, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for the remainder of the term expiring May 18, 2002.

\*Kimberly Terese Nelson, of Pennsylvania, to be an Assistant Administrator of the Environmental Protection Agency.

\*Steven A. Williams, of Kansas, to be Director of the United States Fish and Wildlife Service.

By Mr. BIDEN for the Committee on Foreign Relations.

\*Eric M. Javits, of New York, for the rank of Ambassador during his tenure of service as U.S. Representative to the Conference on Disarmament.

\*Sichan Siv, of Texas, to be Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

\*Sichan Siv, of Texas, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations.

\*Richard S. Williamson, of Illinois, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

\*Richard S. Williamson, of Illinois, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

By Mr. ROCKEFELLER for the Committee on Veterans' Affairs.

Frederico Juarbe, Jr., of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training.

By Mr. LEAHY for the Committee on the Judiciary.

Terry L. Wooten, of South Carolina, to be United States District Judge for the District of South Carolina.

John P. Walters, of Michigan, to be Director of National Drug Control Policy.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1653. A bill to provide loan forgiveness to the surviving spouses of the victims of the September 11, 2001, tragedies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS (for himself, Mr. SHELBY, and Mr. ENZI):

S. 1654. A bill to amend the Education of the Deaf Act of 1986 to authorize the Secretary of Education to establish the National Junior College for Deaf and Blind at the Alabama Institute for Deaf and Blind; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN:

S. 1655. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. HATCH):

S. 1656. A bill to provide for the improvement of the processing of claims for veterans compensation and pension, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. SNOWE:

S. 1657. A Bill to deauthorize the project for navigation, Tenants Harbor, Maine; to the Committee on Environment and Public Works.

By Mr. SCHUMER (for himself, Mr. DEWINE, and Mr. HATCH):

S. 1658. A bill to improve Federal criminal penalties on false information and terrorist hoaxes; to the Committee on the Judiciary.

By Mr. HUTCHINSON (for himself and Mr. SESSIONS):

S. 1659. A bill to provide criminal penalties for communicating false information and hoaxes; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself and Mr. BREAUX):

S. 1660. A bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 1661. A bill to set up a certification system for research facilities that possess dangerous biological agents and toxins, and for other purposes; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S. 1662. A bill to amend the Internal Revenue Code of 1986 to allow Coverdell educational savings accounts to be used for homeschooling expenses; to the Committee on Finance.

By Mrs. CLINTON:

S. 1663. A bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 1664. A bill to require country of origin labeling of raw agricultural forms of ginseng, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 1665. A bill amend title 18, United States Code, with respect to false information regarding certain criminal violations concerning hoax reports of biological, chemical, and nuclear weapons; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 1666. A bill to prevent terrorist hoaxes and false reports; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1667. A bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 1668. A bill to amend the Communications Act of 1934 to strengthen the limitations on the holding of any license, permit, operating authority by a foreign government or any entity controlled by a foreign government; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself and Mr. MCCAIN) (by request):

S. 1669. A bill to authorize appropriations for hazardous material transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. HELMS, Mr. WELLSTONE, Mr. BROWNBACK, Mr. SARBANES, Mr. TORRICELLI, Mr. DASCHLE, Mr. ALLEN, Mr. DODD, and Mr. KERRY):

S. Con. Res. 81. A concurrent resolution expressing the sense of Congress to welcome the Prime Minister of India, Atal Bihari

Vajpayee, on the occasion of his visit to the United States, and to affirm that India is a valued friend and partner and an important ally in the campaign against international terrorism; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 455

At the request of Ms. COLLINS, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 455, a bill to amend the Internal Revenue Code of 1986 to increase and modify the exclusion relating to qualified small business stock and for other purposes.

S. 986

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 986, a bill to allow media coverage of court proceedings.

S. 1214

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1541

At the request of Ms. COLLINS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1541, a bill to provide for a program of temporary enhanced unemployment benefits.

S. 1571

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1571, a bill to provide for the continuation of agricultural programs through fiscal year 2006.

S. 1615

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1615, a bill to provide for the sharing of certain foreign intelligence information with local law enforcement personnel, and for other purposes.

S. 1621

At the request of Mrs. CLINTON, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1621, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of community members, volunteers, and workers in a disaster area.

S. 1627

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1627, a bill to enhance the security of the international borders of the United States.

S. 1630

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1630, a bill to extend for 6

additional months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 1633

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1633, a bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban open space and contain suburban sprawl, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the names of the Senator from Virginia (Mr. WARNER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S.J. RES. 24

At the request of Mr. SPECTER, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 24, a joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell.

S. RES. 140

At the request of Mr. ROBERTS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 140, a resolution designating the week beginning September 15, 2002, as "National Civic Participation Week."

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 1655. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

Mr. BIDEN. Madam President, I rise today to introduce the Captive Exotic Animal Protection Act. This legislation was first introduced in the 104th Congress by former Senator Frank Lautenberg and I am pleased to be here today continuing his legacy.

The Captive Exotic Animal Protection Act would make it illegal to knowingly transfer, transport, or possess in interstate commerce of foreign commerce, a confined exotic mammal for the purposes of allowing the killing or injuring of that animal for entertainment or for the collection of a trophy. The bill protects exotic mammals that have been held in captivity for the shorter of a. the greater part of the animal's life, or b. a period of one year, whether or not the defendant knew the length of the captivity. This bill is intended to prevent the cruel and unsporting practice of what we have come to know as "canned hunts."

Words cannot describe a "canned" hunt. The images that I have seen,

footage taken surreptitiously at these ranches, provides evidence that the treatment of these animals is troubling. Today, at more than 1,000 commercial canned hunt operations across the country, trophy hunters pay a fee to shoot captive exotic animals, from African lions to giraffes, blackbuck antelope, assorted African goats and sheep, a Corsican ram, or a boar, in fenced-in enclosures. The hunting of these animals typically occurs in a fenced enclosure and is often in a "guaranteed kill" arrangement meaning that a hunter by virtue of the fact that he has paid his fee is assured of a kill.

Now hunting is a sport and if you ask any of the hunters in my home State of Delaware or elsewhere about this they will tell you that there is an ethic of hunting that involves consideration of fair chase, affording the animal the opportunity to evade or elude the hunter. Canned hunts, in fenced-in enclosures, weigh the odds so heavily in favor of the hunters that it essentially eliminates the fair chase component. In addition, these animals on hunting ranches are often fed by hand, in a sense domesticated, and have little or no fear of humans. They don't run when they see a human being in front of them. This practice is unfair and unsportsmanlike.

But it is not just about the fact that this practice is inhumane, there are also other concerns. Clustered in a captive setting at unusually high densities, confined exotic animals often attract disease more readily than more widely dispersed native species who roam freely. These exotics then interact with native species through fences, jeopardizing the health of deer, elk, and other native species. Animal disease places hunting programs and wildlife watching programs, that generate millions of dollars in economic activity, at risk.

While a number of States have taken action to prohibit the practice of canned hunts, California, Connecticut, Georgia, Indiana, Maryland, Massachusetts, Montana, Nevada, North Carolina, New Jersey, Oregon, Rhode Island, Washington, Wisconsin, and Wyoming have passed such statutes, that is only a small segment of the country. Unfortunately, the regulation of the transport and treatment of exotic animals on shooting preserves falls outside the traditional domains of State agriculture departments and State fish and games agencies. The Captive Exotic Animal Protection Act is specifically designed to address this problem, which directly involves an issue of interstate commerce.

This is sensible legislation that is backed by responsible hunters, animal protection advocates, wildlife scientists, environmentalists and zoological professionals. The Boone and Crockett Club and the Izaak Walton League of America, nationally recognized hunting clubs, have policy positions affirmatively opposing canned

hunts. In addition, this legislation is supported by the Humane Society of the United States, the Doris Day Animal League, the Fund for Animals, and the Animal Protection Institute.

I want to say to my colleagues who may have questions about this legislation that the Captive Exotic Animal Protection Act is limited in its scope and purpose and will not limit the licensed hunting of any native mammals or any native or exotic birds. The bill is directed at true "canned" hunts and covers only exotic mammals, or those not historically indigenous to the United States. Birds, native or non-native, and indigenous mammals, such as white tail deer and bears, are not covered by the bill. This legislation is a federal remedy and proposed specifically to deal with the purely commercial interstate movement of exotic animals destined to be killed at canned hunting ranches.

I hope you will join me in supporting this legislation.

By Mr. FEINGOLD (for himself and Mr. HATCH):

S. 1656. A bill to provide for the improvement of the processing of claims for veterans compensation and pension, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Madam President, I am proud today to introduce the Veterans Benefits Administration Improvement Act of 2001, a bill that aims to decrease the amount of time it takes the Veterans Benefits Administration, VBA, to process veterans' claims. I am pleased to be joined by the senior Senator from Utah, Senator HATCH. He had long been a strong advocate for our veterans.

In 1999, there were 309,000 backlogged claims at the VBA. Today, that number stands at 533,000. It now takes an average of 202 days to process disability compensation and pension claims. This figure is expected to grow to more than 270 days by 2002. Many of the claims that are awaiting action have been filed by World War II and Korean War veterans; our World War II veterans are dying at the rate of about 1,500 a day. The VBA must take action to improve this dismal record.

I have traveled throughout Wisconsin and met with veterans. This problem is consistently one of their top concerns. They are angry and frustrated, with justification, about the amount of time it takes for the VBA to process their claims. In some instances, veterans are waiting well over a year. Telling the men and women who served their country in the armed forces that they "just have to wait" is wrong and unacceptable.

The VBA Improvement Act will require the Secretary of Veterans Affairs to submit a comprehensive plan to Congress for the improvement of the processing of claims for veterans compensation and pension. In addition, every six months afterwards the Secretary must report to Congress about the status of the program.

While I am pleased that Secretary Principi has acknowledged that improving claims processing is a priority for the VA, nevertheless it is time for Congress to hold the Department of Veterans Affairs accountable. Our veterans are unable to wait for additional recommendations from more reports or task forces. It is time for Congress to hold the VA accountable. Our veterans deserve no less.

By Mr. SCHUMER (for himself, Mr. DEWINE, and Mr. HATCH):

S. 1658. A bill to improve Federal criminal penalties on false information and terrorist hoaxes; to the Committee on the Judiciary.

Mr. SCHUMER. Madam President, today Senator DEWINE and I are introducing a bill that will address what has sadly become a very serious problem. Since September 11, the number of terrorist hoaxes has increased dramatically.

The bill that we introduce today would fill a gap in the law by explicitly making the commission of a terrorist hoax illegal and punishable by up to five years in jail.

The last seven weeks have been difficult for all Americans. By nature, we Americans are tough. But many of us, myself included, are also a little more anxious than usual. That is understandable. But what is not understandable, in fact what is barely conceivable, is that some people think it is funny to take advantage of that fear.

Each terrorist hoax means a waste of valuable law enforcement time and scarce resources.

Our police officers and the FBI are already working around the clock to catch and arrest everyone involved in the September 11 attack, to find the perpetrators of the anthrax attacks, and to prevent future attacks from taking place.

Wasting law enforcement's time and resources by committing terrorist hoaxes takes away from their ability to protect us. So in many ways, committing a terrorist hoax is an extension of terrorism itself.

Beyond that, each terrorist hoax mocks the loss of thousands of lives in the September 11 attack and the recent deaths from anthrax.

In the first three weeks of October alone, the FBI has responded to more than 3,300 cases relating to weapons of mass destruction, including 2,500 threat assessments involving suspected anthrax incidents. Normally, they deal with 250 of these cases in an entire year. The last thing the FBI and the police have time for is a terrorist hoax.

Unfortunately, many of my fellow New Yorkers can attest to the fear and the commitment of resources caused by one of these terrorist hoaxes.

In Nassau County, on October 16, a Federal Express deliveryman placed a white powdery substance inside a computer package. That led to an understandably frantic phone call. Seven officers and three vehicles were dispatched in response to this anthrax hoax.

On October 26, a Staten Island man sent a threatening letter in a powdered envelope to his girlfriend.

An apparent hoax diverted a Dallas-bound American Airlines flight from New York's LaGuardia Airport to Washington, DC's Dulles Airport on October 29 after a threatening note was found on board. The passengers and flight crew were all forced to evacuate on the runway. The impact on the entire airport's operations were disrupted, and the entire national air traffic control system had to deal with this.

On October 17, a 17-year-old brought an envelope with the words "Death to All Who Open This" to Kingston High School in the Hudson Valley. The envelope contained white, powdery material. According to school officials, approximately 3,000 students and staff were held in lock-down for 90 minutes while some 50 local police, fire, and emergency response personnel assessed the situation.

Now more than ever, we need to send a loud and clear message to the perpetrators of hoaxes of all kinds: Your behavior is wrong. It is disgusting. And it is a serious crime.

The legislation that Senator DEWINE and I are introducing today sends that message.

Anyone convicted of committing a hoax terrorist attack involving a fake explosive incendiary, biological, chemical, or nuclear device, or falsely reporting one of these attacks, will be punished by a prison sentence of up to five years as well as stiff monetary fines.

In addition, anyone convicted of committing a terrorist hoax would be held responsible for reimbursement for all expenses resulting from the hoax.

This bill makes it clear that committing a terrorist hoax is no laughing matter.

My hope is that by sending a strong message today and in the weeks to come, those who are thinking about committing a terrorist hoax will think twice before diverting the police and FBI from focusing all of their time and energy on protecting us from real threats, and before another hoax puts us on edge, yet again.

Mr. DEWINE. Madam President, I rise today to discuss a distressing problem facing our citizens, our Nation's law enforcement officers, and our public health officials. This problem is the growing threat of bioterrorism and other weapons of mass destruction—both real and perceived.

The recent bioterrorist attacks affecting the media, Congress, and the U.S. Postal Service have spawned a great number of anthrax hoaxes across the Nation. These hoaxes, aside from adding to the widespread public panic over terrorism, have created another serious problem: They are taxing our already strained emergency management and public health resources, which are vital to protect our national security.

Suprisingly, there is no existing Federal code that directly prohibits biological, chemical, or nuclear weapon hoaxes. Therefore, there is no Federal law that directly punishes the current anthrax hoaxes. These acts waste scarce Federal resources, negatively affecting interstate commerce and national security interests. Yet, there is no Federal law on the books to prosecute these offenders.

In all likelihood, the current anthrax hoaxes will be prosecuted under a provision for "mailing threatening communications" or threatening the "use of certain weapons of mass destruction," 18 USC 876, 2332a. The problem with prosecuting the anthrax hoaxes under these statutes is that they require the prosecutor to prove that the offender has crossed a threshold of threatening language. But what constitutes sufficiently threatening language?

Unfortunately, not all of these hoaxes meet this threshold. For example, under current law, it is difficult to prosecute the acts of an eighth-grade science teacher in Ohio. This teacher placed powdered lime in a school envelope and attempted to mail it through the postal system to her brother in another city. The envelope was found en route at the school, before it could leave the building. The school was evacuated, frightening hundreds of already shaken children and parents. Emergency management teams wasted valuable time and resources testing the site.

Right now, this woman faces a State charge of inducing panic. That is it; no other charges are pending. There is no clear Federal law on the books to prosecute her offense, because there was no threat. Had there been an actual incident where anthrax was released while police and emergency crews were tied up looking into this hoax, who knows how widespread the damage could have been. Many people could have been infected in the time that it took emergency crews to clear up this "joke."

So far, the U.S. Postal Service reports that it has evacuated over 353 postal facilities for varying amounts of time as a result of more than 8,600 hoaxes, threats, and suspicious incidents related to anthrax since just mid-October. That is an average of 578 a day for an agency used to dealing with only a few hundred such calls a year. In my home State of Ohio, alone, health officials have tested nearly 800 suspicious specimens from around the State, but have found no anthrax or other dangerous substances. A significant number of those reports appear to have been hoaxes. On a national scale, the financial and physical strain imposed by hoaxes on our national law enforcement and public health systems have been enormous. In regard to our citizens, these pranks cause great panic and are really acts of terrorism.

That is why, along with my colleagues, Senator SCHUMER and Ranking Member HATCH, I have introduced a bill

that would create a new crime for hoaxes involving the purported use of a weapon of mass destruction. This bill will prohibit any conduct that gives the false impression that a biological, chemical, or nuclear weapon may be used, when it is reasonable to assume that there will be an emergency response. The required conduct may involve the communication of information, whether in written or verbal form, as well as physical actions. Under our bill, there is no legal burden to identify a specific threat. For example, we would be able to prosecute someone who mails an envelope of white powder with a note that says, "Smile, you have been exposed to anthrax."

Furthermore, anyone convicted under this bill would be responsible for the reimbursement of expenses incurred in responding to a hoax, including the cost of any response by any Federal military or civilian agency to protect public health or safety during the course of an investigation. Convicted cohorts also would share in financial liability for such a hoax.

The Ohio Department of Health, alone, has spent more than \$500,000 of the taxpayers' money investigating false anthrax claims—a large percentage of which were hoaxes. This bill would discourage hoaxes, while helping to alleviate the financial burden that these pranks and false reports are imposing on our Federal, State, and local government agencies.

It is indeed shocking that some people want to capitalize on the recent horrific acts of terrorism in order to play a joke or intentionally cause widespread panic, or worse, inflict physical harm. Unfortunately, this is the reality we confront today. To deal with this threat, we need to give our Federal Government the necessary tools to prosecute those who would stage these hoaxes and disrupt the sense of normalcy that we have all struggled to recover since September 11th.

By Mr. HUTCHINSON (for himself and Mr. SESSION):

S. 1659. A bill to provide criminal penalties for communicating false information and hoaxes; to the Committee on the Judiciary.

Mr. HUTCHINSON. Madam President, I ask unanimous consent that a copy of the Terrorist Hoax Costs Recovery Act of 2001, which I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Hoax Costs Recovery Act of 2001".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the expert resources available to the Government to deal with Federal crimes involving actual or potential chemical, biological, and nuclear weapons are limited;

(2) false reporting of such crimes almost invariably requires the attention of Federal investigative, scientific, and public health officers and employees, thereby needlessly diverting them from work that is vital to the national security and dangerously impairing the Government's ability to deal with real situations;

(3) recent episodes amply demonstrate that even isolated false reports can have a substantial adverse effect on interstate and foreign commerce, causing needless worry or even panic in the general public, and encouraging copycat episodes; and

(4) a comprehensive prohibition on such false reports is necessary to preserve scarce and vital Federal resources, to avoid substantial adverse effects on interstate and foreign commerce, and to protect the national security of the United States.

### SEC. 3. PROHIBITION.

(a) PROHIBITION ON HOAXES.—Chapter 41 of title 18, United States Code, is amended by adding after section 880 the following:

#### “§ 881. False information and hoaxes

“(a) CRIMINAL VIOLATION.—Whoever communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning the existence of activity which would constitute a violation of section 175, 229, or 831 shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) CIVIL PENALTY.—Whoever communicates information, knowing the information to be false, concerning the existence of activity which would constitute a violation of section 175, 229, or 831 is liable to the United States for a civil penalty of the greater of \$10,000 or the amount expended by the United States incident to the investigation of such conduct, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

#### “(c) REIMBURSEMENT OF COSTS.—

“(1) CONVICTED DEFENDANT.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse the United States for any expenses incurred by the United States incident to the investigation of the commission by that person of such offense, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

“(2) JOINTLY AND SEVERALLY LIABLE.—A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for those expenses.”.

(b) CONFORMING AMENDMENT.—The analysis of chapter 41 of title 18, United States Code, is amended by adding after the item for section 880 the following:

“881. False information and hoaxes.”.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 1661. A bill to set up a certification system for research facilities that possess dangerous biological agents and toxins, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Madam President, I rise to introduce legislation, cosponsored by Senator KYL, to prohibit individuals from possessing anthrax, small-

pox, and three dozen other of the most dangerous biological agents and toxins.

To date, 17 people have confirmed anthrax infections, four of whom died from inhalation anthrax. This toll, though tragic, could have grown exponentially if the perpetrators had used a more sophisticated delivery system.

Despite anthrax's and other agents' potential for weaponization, our government does not keep track of who possesses them. No special certification is required to possess these agents. Nor are background checks conducted on the laboratory personnel who handle or have access to these agents.

This situation must change.

The legislation I am introducing expands upon the antiterrorism bill Congress passed and the President signed just days ago. That bill prohibited an individual from possessing anthrax or other potential weapons of bioterror unless the individual could show legitimate purpose for holding the substance once caught. This standard of “legitimate purpose” is not defined, and will put the burden on courts and law enforcement to determine what a “legitimate purpose” is.

The fact is that current law still does not adequately prevent individual possession of these dangerous agents.

During a hearing in the Technology and Terrorism Subcommittee of the Judiciary Committee yesterday, it became clear to those of us on the committee that law enforcement does not know who has anthrax, where it is stored, or what is being done with it.

When asked if domestic laboratories were the source of the anthrax sent to Senator DASCHLE's office, the FBI witness said the FBI didn't know.

When asked how many labs in the United States handle anthrax or are capable of developing the highly refined anthrax used in the Daschle letter, the FBI answered again that it did not know.

When asked how many labs in the United States handle anthrax or are capable of developing the highly refined anthrax used in the Daschle letter, the FBI answered again that it did not know.

And the same goes for more than three dozen other dangerous agents like small pox, ebola virus, and ricin.

Under our legislation, no individual could possess any of these dangerous agents, period.

Any medical or research lab wishing to possess or use these dangerous agents must first be certified by the United States Department of Health and Human Services.

Individuals in those labs who handle or who have access to these agents must undergo background checks, and the labs themselves must institute strict safety precautions.

And every single research lab, medical office, or other entity wishing to possess any one of these 40 some agents ruled dangerous by the CDC must demonstrate to the Secretary a legitimate purpose for that possession.

The purpose of the legislation is to assure that law enforcement and public health officials know much more about who has these agents, where and how they are stored, and what is being done with them.

Right now, we do not have this information.

Moreover, the bill will make it harder for terrorists to get access to these agents by requiring background checks and assuring that labs possessing these agents have adequately security safeguards.

I can think of no legitimate reason why an ordinary person needs to possess his or her personal cache of anthrax, small pox, or ebola virus.

According to the calculations of some experts, biological weapons are pound for pound potentially more lethal even than thermonuclear weapons.

For instance, a 1993 report by the U.S. Congressional Office of Technology Assessment estimated that between 130,000 and 3 million deaths could follow the aerosolized release of 100 keg of anthrax spores upwind of the Washington, DC area—lethally matching or exceeding that of a hydrogen bomb.

It is time to acknowledge that we live in a world where the government must take responsibility in protecting the public from those who would misuse these materials. No longer can we stand by and let the balance tip towards free possession of dangerous, even deadly, biological agents.

I urge my colleagues to support this bill

By Mr. FEINGOLD:

S. 1664. A bill to require country of origin labeling of raw agricultural forms of ginseng, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Madam President, I rise today to introduce legislation that addresses the increased amount of smuggled and mis-labeled ginseng entering this country.

This legislation is similar to a bill that I introduced in the last Congress, but is strengthened with a number of provisions based on the suggestions from ginseng growers and the Ginseng Board of Wisconsin.

In addition to proposing a refined process of country-of-origin labeling for ginseng products, my new legislation closes a loophole in the regulations governing dietary supplements, where producers of products other than ginseng are currently advertising them as a type of ginseng.

In order to coordinate the efforts to eliminate the practice of ginseng smuggling, this legislation also requires the Department of Justice, EPA, and other Federal agencies to coordinate their efforts to crack down on smuggled ginseng, which often contains pesticides that are banned for use in the United States.

Chinese and Native American cultures have used ginseng for thousands

of years for herbal and medicinal purposes.

In America, ginseng is experiencing a newfound popularity, and I am proud to say that my home State of Wisconsin is playing a central role in ginseng's resurgence.

Wisconsin produces 97 percent of the ginseng grown in the United States, and 85 percent of the country's ginseng is grown in Marathon County.

The ginseng industry is a economic boon to Marathon County, as well as an example of the high quality for which Wisconsin's agriculture industry is known.

Wisconsin ginseng commands a premium price in world markets because it is of the highest quality and because it has a lower pesticide and chemical content.

With a huge market for this high-quality ginseng overseas, and growing popularity for the ancient root here at home, Wisconsin's ginseng industry should have a prosperous future ahead.

Unfortunately, the outlook for ginseng farmers is marred by a serious problem—smuggled and mislabeled ginseng. Wisconsin ginseng is considered so superior to ginseng grown abroad that smugglers will go to great lengths to label ginseng grown in Canada or Asia as "Wisconsin-grown."

Here's how the switch takes place: Smugglers take Asian or Canadian-growing ginseng and ship it to plants in China, allegedly to have the ginseng sorted into various grades.

While the sorting process is itself a legitimate part of distributing ginseng, smugglers often use it as a ruse to switch Wisconsin ginseng with the Asian or Canadian ginseng considered inferior by consumers.

The smugglers know that while Chinese-grown ginseng has a retail of about \$5–\$6 per pound, while Wisconsin-grown ginseng is valued at roughly \$16–\$20 per pound.

To make matters even tougher for Wisconsin's ginseng farmers, there is no accurate way of testing ginseng to determine where it was grown, other than testing for pesticides that are legal in Canada and China but are banned in the United States.

And in some cases, smugglers can even find ways around the pesticide tests. Last year, a ConsumerLab.com study confirmed that much of the ginseng sold in the U.S. contained harmful chemicals and metals, such as lead and arsenic.

That is because the majority of ginseng sold in the U.S. originates from countries with lower pesticide standards, so it's vitally important that consumers know which ginseng is really grown in Wisconsin.

Some domestic and foreign countries are also labeling certain products as ginseng when they are in fact a distinctly different product. Due to a loophole in the regulations governing dietary supplements, products other than ginseng are currently advertising themselves as a type of ginseng. For

example, some products claim to include a product known as "Siberian Ginseng," which is actually *Eleutherococcus*, a bush that is a distinctly different product from ginseng.

Ginseng is a root, not a bush, and consumers have the right to know that when they reach for a high quality ginseng product, they are buying just that—ginseng, not some ground up bush.

For the sake of ginseng farmers and consumers, the U.S. Senate must crack down on smuggled and mislabeled ginseng.

Without adequate labeling, consumers have no way of knowing the most basic information about the ginseng they purchase, where it was grown, what quality or grade it is, or whether it contains dangerous pesticides.

My legislation proposes some common sense steps to address two of the challenges facing the ginseng industry, and none of these proposals costs the taxpayers a dime.

The first section requires mandatory country of origin labeling at the port of entry, to prevent the practice of mixing foreign ginseng with domestic ginseng. This would allow buyers of ginseng to more easily prevent foreign companies from mixing foreign produced ginseng with ginseng produced in America. The country of origin labeling is a simple but effective way to enable consumers to make an informed decision.

This legislation also closes a loophole in U.S. law that allows products other than ginseng to advertise themselves as a type of ginseng. Under my proposal, when a consumer purchases a product labeled as containing ginseng, they will know what they are buying.

This legislation also requires the Department of Justice, EPA, and other Federal agencies to coordinate their efforts to crack down on smuggled ginseng, which often contains pesticides that are banned for use in the United States. The lax enforcement of smuggled ginseng also puts our producers on an unfair playing field. The mixing of superior Wisconsin ginseng with lower quality foreign ginseng root penalizes the grower and eliminates the incentive to provide the consumer with a superior product.

We must give ginseng growers the support they deserve by implementing these common sense reforms that also help consumers make informed choices about the ginseng that they consume.

We must ensure when ginseng consumers reach for a quality ginseng product, such as Wisconsin grown ginseng, that they are getting the real thing, not a cheap imitation.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 1665. A bill to amend title 18, United States Code, with respect to false information regarding certain criminal violations concerning hoax reports of biological, chemical, and nu-

clear weapons; to the Committee on the Judiciary.

Mr. BIDEN. Madam President, I rise today to introduce the Protection Against Terrorist Hoaxes Act of 2001. I am honored to have the ranking member of the Judiciary Committee, Senator HATCH, as an original co-sponsor of this legislation. This bill would amend title 18 of the United States Code to, for the first time, make it a Federal crime to knowingly make a hoax report, involving a biological, chemical, nuclear weapon, or other weapon of mass destruction. Likewise, it would make it a criminal offense to knowingly send such a hoax weapon to another.

Since the unspeakable terrorist attacks of September 11, our nation has witnessed a mind-boggling number of anthrax hoax reports. This in turn has triggered an equally large number of reports of suspected biological agents. No part of the Nation has been spared, and my home State of Delaware has had several hundred reports of possible biological agents. Just this week, the FBI reported to Congress the staggering statistic involving these bioterrorism hoaxes and other reports of suspected biological agents. Prior to September 11, the FBI had responded to about 100 cases involving potential use of "weapons of mass destruction," 67 of which involved alleged biological weapons. Since mid-September, however, that number has increased by 3,000 percent! As of today, the FBI reported that they have responded to 7,089 suspicious anthrax letters alone, 950 incidents involving other suspected weapons of mass destruction, and an estimated 29,331 telephonic calls from the public about suspicious packages.

The good news is that most of these reports were hoaxes, or reports made by well-meaning people whose suspicions were raised. The bad news is that any hoax reports were made in the first place, triggering panic on the part of the public, and often forcing the Federal, state, and local governments to waste valuable time and resources responding to them. In one particularly egregious case, it has been reported that an employee of the Connecticut Department of Environmental Protection falsely reported to security that he had found a yellowish-white powder on his desk with the misspelled label "ANTHAX." The employee, a 48-year-old solid waste management analyst, knew the material was not toxic, it was determined to be coffee creamer, but persisted in the false account. 800 State employees were evacuated from the building for 2 days while law enforcement officials tested the building, at a cost of \$1.5 million in lost workers' time, another \$40,000 in decontamination costs, and an undisclosed amount of money spent on rescue and law enforcement. The employee is being charged in Federal court, not for the hoax report, but for lying to Federal officials after the fact.

Indeed, the Justice Department reported to Congress this week that

there is a gap in the existing Federal law regarding the prosecution of bioterrorism hoaxes. That is, while it is a crime to threaten to use, for example, anthrax as a weapon against another person, it is not a crime to make a hoax anthrax report. Accordingly, the Justice Department called upon Congress this week to enact legislation which specifically addresses hoaxes which involve purported biological substances, as well as chemical, nuclear and other weapons of mass destruction.

We should answer that call and act now to give the law enforcement the tools they need to combat these despicable crimes. I introduced a bioterrorism bill, S. 3202, in the 106th Congress which contained an anti-hoax provision. Had that bill been enacted into law, Federal prosecutors would have the means to prosecute bioterrorism hoaxes. The need for a Federal anti-hoax provision has never been more clear than in the last several weeks. The Federal interest is indisputable, as States and localities are simply not equipped with the expertise or resources to evaluate and respond to these hoaxes. A comprehensive prohibition on such false reports is necessary to preserve scarce and vital federal resources.

Accordingly, as chairman of the Judiciary Subcommittee on Crime and Drugs, I introduce a bill today which contains both criminal provisions and civil penalties for the hoax reporting of bioterrorism incidents. My bill simply says that if you knowingly engage in conduct, such as deliberately sending baking powder through the mail to your Congressman or calling 911 to falsely report the presence of anthrax in a public building, that is likely to create the false impression concerning the presence of anthrax, or other similar things, that you have committed a Federal offense, punishable by up to 5 years in jail. Moreover, such a person may be fined the greater of either \$10,000 or the amount of money expended by the government to respond to the false information. Finally, such a person may also be ordered to reimburse the government if costs were incurred in responding to the false hoax. Let me be clear, this bill will not target innocent mistakes or people who make a report concerning a suspected substance; it is aimed, rather, at deliberate hoax reports by those who know they are spreading false information.

I have said many times on the floor of this body that the terrorists win if they succeed in sowing seeds of panic into our daily lives. We cannot and will not let that happen. Similarly, we will not let these hoaxers get away with words and deeds which have the same effect.

By Mr. LEAHY:

S. 1666. A bill to prevent terrorist hoaxes and false reports; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I rise to introduce the Anti-Terrorist Hoax

and False Report Act of 2001. The bill would provide a new tool for law enforcement to deal with the problem of serious hoaxes and malicious false reports relating to the use of weapons of mass destruction, or biological, chemical, or nuclear weapons. These so-called "hoaxes" inflict both mental and economic damage on victims. They drain away scarce law enforcement resources from the investigation of real terrorist activity. They interrupt vital communication facilities. Finally, they feed a public fear that the vast majority of law abiding Americans are working hard to dispel.

Federal, State, and local law enforcement already have statutes which they have been using aggressively to prosecute those who have taken advantage of these times to perpetrate hoaxes about anthrax contamination. Existing statutes create serious penalties for threats to use biological, chemical, or nuclear weapons, for sending any threatening communication through the mail, or for making a willful false statement to federal authorities.

For example 18 U.S.C. §§175, 229, 2332a, and 831 all have their own threat provisions punishable by up to life imprisonment. In addition, 18 U.S.C. §876 makes it a five year felony to mail a threatening communication of any type; and 18 U.S.C. §1001 makes it a five year felony to willfully make any false statement, or even willfully omit a material fact in a matter under the jurisdiction of a federal agency.

In a recent Subcommittee hearing of the Judiciary Committee, James T. Caruso, the Deputy Assistant Director of the FBI's Counter-terrorism Division, stated that there are at least 11 Federal hoax cases which have actually been charged under existing statutes since September 11, 2001. Just last week a Federal conviction was obtained in Oakland, California under 18 U.S.C. §175, which carries a statutory maximum penalty of life imprisonment, for an anthrax hoax which occurred back in January of 1999. Thus, existing Federal statutes are already being employed to prosecute these cases when Federal prosecution is appropriate. In addition, numerous State provisions are available and are being used to prosecute these cases at the State and local level.

Indeed, current Federal threat laws do not require that the defendant have either the intent or present ability to carry out a threat, which enables prosecutors to use such laws to prosecute these serious hoaxes. At the same terrorism hearing, Deputy Assistant Director Caruso made it clear that authorities are able to prosecute even "non-credible" threats under current Federal laws. However, while they carry high penalties, including a maximum of life imprisonment, at the same hearing James Reynolds, from the Department of Justice's Section on Terrorism and Violent Crime, indicated that these statutes can sometimes be awkward when applied in the hoax context.

What this bill provides, is a well tailored statute that deals specifically with the problem of biological, chemical, mass destruction, and nuclear "hoaxes", that is, actions taken with the malicious intent to deceive the victim. For instance, it gives prosecutors a means to distinguish between a person who is actually threatening to use anthrax on a victim on one hand, and a person who never intends to use it, but truly wants the victim or the police to think they have done so, on the other. In the later case the statute creates a new five year felony.

The bill requires that the defendant act "knowingly and maliciously," so that we do not federalize juvenile pranks or the misguided though innocent spreading of rumors. For instance, a local prosecutor in Chicago recently placed an envelope containing sugar on a colleague's desk. He was administratively punished by being forced to resign from his job. In Utah, a disabled miner was charged locally because he put sugar and Nesquik into a junk mail envelope. In Anne Arundel County, MD, two juveniles were arrested after they placed powder in an envelope and did not even mail it, but it was found by someone else and reported, engendering an unintended emergency response. In Ohio, a security guard "super-glued" a telephone in a county welfare building, and when the glue left a powdery residue it caused a anthrax scare. In Williamsport, PA a firefighter is being prosecuted locally on a felony charge for claiming that he received a letter containing white powder at his home. These types of incidents do not merit a lengthy term in Federal prison. As the examples I have listed above demonstrate, we have appropriately serious ways to deal with cases when Federal criminal prosecution is not needed.

Indeed, law enforcement agencies or private companies of the conduct "readiness testing" so that they will be able to deal with serious chemical or biological weapon threats. For instance, three weeks ago a Kentucky sheriff conducted such a readiness drill by leaving an envelope filled with crushed aspirin on a desk at a county courthouse in order to test the response. Requiring a malicious mens rea will ensure also that we do not criminalize or chill this type of admirable proactive effort. In sum, malicious acts deserve Federal felony prosecution; innocent bad judgment and juvenile behavior do not, and neither do laudable efforts by police and private actors to preserve readiness for biological or chemical attack.

Another provision in the bill would provide for mandatory restitution to any victim of these crimes, including the costs of any and all government response to the hoax. An earlier Administration proposal, offered during the debate over the terrorism bill, would have limited such restitution to only the federal government. As we know all too well from recent events, however,

it is state and local authorities, along with private victims, who are often the first responders and primary victims when these incidents occur. This bill would provide a mechanism so that they too can be reimbursed for their expenses.

For all of these reasons, I am pleased to introduce this legislation and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1666

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti Terrorist Hoax and False Report Act of 2001".

#### SEC. 2. HOAXES, FALSE REPORTS, AND RESTITUTION.

(a) IN GENERAL.—Chapter 41 of title 18, United States Code, is amended by inserting after section 880 the following:

##### "§ 881. Terrorist Hoaxes and False Information

"(a) IN GENERAL.—Whoever knowingly and maliciously imparts, conveys, or communicates information or material, knowing the information or material to be false or fraudulent, and under circumstances in which such information or material may reasonably be believed and is reasonably likely to cause any response by a Federal, State, or local government agency, concerning the existence of activity that would constitute a violation of section 175, 229, 2332a, or 831 of this title, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) RESTITUTION.—Notwithstanding and in addition to sections 3663, or 3663A of this title and any other civil or criminal penalty authorized by law, the court shall order—

"(1) restitution to all victims of an offense under subsection (a), including any losses suffered by a victim as a proximate result of the offense; and

"(2) the defendant to reimburse all Federal, State, and local government, entities for any expenses incurred in response to the offense to protect public health or safety."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 41 of title 18, United States Code, is amended by inserting at the end the following:

"881. Terrorist hoaxes and false information."

By Mr. DOMENICI:

S. 1667. A bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Madam President, I rise to introduce a modified version of my Nuclear Energy Electricity Supply Assurance Act of 2001. When I first introduced this measure, S. 472, it contained a provision known as Section 127, relating to special demonstration projects for the uranium mining industry.

This section was intended to create cooperative, cost-shared, agreements between the Department of Energy and the domestic uranium industry to identify, test, and develop improved in-situ

leaching mining technologies. In addition, I intended that this initiative apply to low-cost environmental restoration that may be applied to sites after completion of in-situ leaching operations. Finally, Sec. 127 was intended to fund competitively-selected demonstration projects with the domestic uranium mining industry relating to enhanced production with improved environmental protection, restoration of well fields, and decommissioning and decontamination activities.

I believe that the intent and spirit of Sec. 127 still have substantial merit. I hope that we can provide incentives for improved mining techniques and improved environmental restoration. However, Sec. 127 was subject to substantial mis-interpretation, especially among many people in the Navajo Nation in northwest New Mexico. It was claimed that this Section was directed toward helping a single company that might use it to expand in-situ mining near the Navajo Nation's borders. It was further claimed that such an approach might over a long period of time contaminate drinking water in the area.

At no time was my bill intended to help any specific company. At no time did we intend anything other than improving environmental restoration and giving some hope to the domestic uranium industry that it might find an environmentally sound way to produce more domestic product.

However, after discussing this issue with the president of the Navajo Nation and other members of the nation, I have decided that the best course, in order to put to rest all of the concerns expressed, is to simply strike Section 127 from my bill. I should add that some members of the Navajo Nation supported Section 127; but, the clear message from my friends on the Navajo Nation is that they would prefer, in order to avoid any confusion, that I delete Section 127 from my bill.

Thus, the modified Act that I introduce today is identical to S. 471, with the exception that I have deleted entirely Section 127, relating to special demonstration projects. I talked to the president of the Navajo Nation this afternoon and he thanked me for this action.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1667

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Nuclear Energy Electricity Supply Assurance Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

#### TITLE I—SUPPORT FOR CONTINUED USE OF NUCLEAR ENERGY

##### Subtitle A—Price-Anderson Amendments

- Sec. 101. Short title.
- Sec. 102. Indemnification authority.
- Sec. 103. Maximum assessment.
- Sec. 104. Department of Energy liability limit.
- Sec. 105. Incidents outside the United States.
- Sec. 106. Reports.
- Sec. 107. Inflation adjustment.
- Sec. 108. Civil penalties.
- Sec. 109. Applicability.

##### Subtitle B—Leadership of the Office of Nuclear Energy, Science, and Technology and the Office of Science

- Sec. 111. Assistant Secretaries.

##### Subtitle C—Funding of Certain Department of Energy Programs

- Sec. 121. Establishment of programs.
- Sec. 122. Nuclear energy research initiative.
- Sec. 123. Nuclear energy plant optimization program.
- Sec. 124. Upgrading of nuclear plant operations.
- Sec. 125. University programs.
- Sec. 126. Prohibition of commercial sales of uranium and conversion held by the Department of Energy until 2006.

- Sec. 127. Maintenance of a viable domestic uranium conversion industry.
- Sec. 128. Portsmouth gaseous diffusion plant.

- Sec. 129. Nuclear generation report.

#### TITLE II—CONSTRUCTION OF NUCLEAR PLANTS

- Sec. 201. Establishment of programs.
- Sec. 202. Nuclear plant completion initiative.
- Sec. 203. Early site permit demonstration program.
- Sec. 204. Nuclear energy technology study for Generation IV Reactors.
- Sec. 205. Research supporting regulatory processes for new reactor technologies and designs.

#### TITLE III—EVALUATIONS OF NUCLEAR ENERGY

- Sec. 301. Environmentally preferable purchasing.
- Sec. 302. Emission-free control measures under a State implementation plan.
- Sec. 303. Prohibition of discrimination against emission-free electricity projects in international development programs.

#### TITLE IV—DEVELOPMENT OF NATIONAL SPENT NUCLEAR FUEL STRATEGY

- Sec. 401. Findings.
- Sec. 402. Office of spent nuclear fuel research.
- Sec. 403. Advanced fuel recycling technology development program.

#### TITLE V—NATIONAL ACCELERATOR SITE

- Sec. 501. Findings.
- Sec. 502. Definitions.
- Sec. 503. Advanced Accelerator Applications Program.

#### TITLE VI—NUCLEAR REGULATORY COMMISSION REFORM

- Sec. 601. Definitions.
- Sec. 602. Office location.
- Sec. 603. License period.
- Sec. 604. Elimination of foreign ownership restrictions.
- Sec. 605. Elimination of duplicative anti-trust review.
- Sec. 606. Gift acceptance authority.
- Sec. 607. Authority over former licensees for decommissioning funding.
- Sec. 608. Carrying of firearms by licensee employees.

Sec. 609. Cost recovery from Government agencies.

Sec. 610. Hearing procedures.

Sec. 611. Unauthorized introduction of dangerous weapons.

Sec. 612. Sabotage of nuclear facilities or fuel.

Sec. 613. Nuclear decommissioning obligations of nonlicensees.

Sec. 614. Effective date.

## SEC. 2. FINDINGS.

Congress finds that—

(1) the standard of living for citizens of the United States is linked to the availability of reliable, low-cost, energy supplies;

(2) personal use patterns, manufacturing processes, and advanced cyber information all fuel increases in the demand for electricity;

(3) demand-side management, while important, is not likely to halt the increase in energy demand;

(4)(A) nuclear power is the largest producer of essentially emission-free electricity;

(B) nuclear energy is one of the few energy sources that controls all pollutants;

(C) nuclear plants are demonstrating excellent reliability as the plants produce power at low cost with a superb safety record; and

(D) the generation costs of nuclear power are not subject to price fluctuations of fossil fuels because nuclear fuels can be mined domestically or purchased from reliable trading partners;

(5) requirements for new highly reliable baseload generation capacity coupled with increasing environmental concerns and limited long-term availability of fossil fuels require that the United States preserve the nuclear energy option into the future;

(6) to ensure the reliability of electricity supply and delivery, the United States needs programs to encourage the extended or more efficient operation of currently existing nuclear plants and the construction of new nuclear plants;

(7) a qualified workforce is a prerequisite to continued safe operation of—

(A) nuclear plants;

(B) the nuclear navy;

(C) programs dealing with high-level or low-level waste from civilian or defense facilities; and

(D) research and medical uses of nuclear technologies;

(8) uncertainty surrounding the costs associated with regulatory approval for siting, constructing, and operating nuclear plants confuses the economics for new plant investments;

(9) to ensure the long-term reliability of supplies of nuclear fuel, the United States must ensure that the domestic uranium mining, conversion, and enrichment service industries remain viable;

(10)(A) technology developed in the United States and worldwide, broadly labeled as the Generation IV Reactor, is demonstrating that new designs of nuclear reactors are feasible;

(B) plants using the new designs would have improved safety, minimized proliferation risks, reduced spent fuel, and much lower costs; and

(C)(i) the nuclear facility infrastructure needed to conduct nuclear energy research and development in the United States has been allowed to erode over the past decade; and

(ii) that infrastructure must be restored to support development of Generation IV nuclear energy systems;

(11)(A) to ensure the long-term viability of nuclear power, the public must be confident that final waste forms resulting from spent fuel are controlled so as to have negligible impact on the environment; and

(B) continued research on repositories, and on approaches to mitigate the toxicity of materials entering any future repository, would serve that public interest; and

(12)(A) the Nuclear Regulatory Commission must continue its stewardship of the safety of our nuclear industry;

(B) at the same time, the Commission must streamline processes wherever possible to provide timely responses to a wide range of safety, upgrade, and licensing issues;

(C) the Commission should conduct research on new reactor technologies to support future regulatory decisions; and

(D) a revision of certain Commission procedures would assist in more timely processing of license applications and other requests for regulatory action.

## SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission” means the Nuclear Regulatory Commission.

(2) EARLY SITE PERMIT.—The term “Early Site Permit” means a permit for a site to be a future location for a nuclear plant under subpart A of part 52 of title 10, Code of Federal Regulations.

(3) NUCLEAR PLANT.—The term “nuclear plant” means a nuclear energy facility that generates electricity.

(4) SECRETARY.—The term “Secretary” means the Secretary of Energy.

## TITLE I—SUPPORT FOR CONTINUED USE OF NUCLEAR ENERGY

### Subtitle A—Price-Anderson Amendments

#### SEC. 101. SHORT TITLE.

This subtitle may be cited as the “Price-Anderson Amendments Act of 2001”.

#### SEC. 102. INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking “LICENSES” and inserting “LICENSEES”; and

(2) by striking “August 1, 2002” each place it appears and inserting “August 1, 2012”.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “, until August 1, 2002,”.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking “August 1, 2002” each place it appears and inserting “August 1, 2012”.

#### SEC. 103. MAXIMUM ASSESSMENT.

Section 170b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended in the second proviso of the third sentence by striking “\$10,000,000” and inserting “\$20,000,000”.

#### SEC. 104. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) AGGREGATE LIABILITY LIMIT.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

“(2) LIABILITY LIMIT.—In an agreement of indemnification entered into under paragraph (1), the Secretary—

“(A) may require the contractor to provide and maintain the financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

“(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of \$10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each

nuclear incident, including such legal costs of the contractor as are approved by the Secretary.”.

(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (3) and inserting the following:

“(3) CONTRACT AMENDMENTS.—All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2001, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on that date.”.

#### SEC. 105. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking “\$100,000,000” and inserting “\$500,000,000”.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking “\$100,000,000” and inserting “\$500,000,000”.

#### SEC. 106. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking “August 1, 1998” and inserting “August 1, 2008”.

#### SEC. 107. INFLATION ADJUSTMENT.

Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by designating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

“(2) ADJUSTMENT.—The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since—

“(A) that date of enactment, in the case of the first adjustment under this subsection; or

“(B) the previous adjustment under this subsection.”.

#### SEC. 108. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NONPROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended by striking subsection d. and inserting the following:

“d. Notwithstanding subsection a., no contractor, subcontractor, or supplier of the Department of Energy that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code shall be subject to a civil penalty under this section in any fiscal year in excess of the amount of any performance fee paid by the Secretary during that fiscal year to the contractor, subcontractor, or supplier under the contract under which a violation occurs.”.

#### SEC. 109. APPLICABILITY.

(a) INDEMNIFICATION PROVISIONS.—The amendments made by sections 103, 104, and 105 do not apply to a nuclear incident that occurs before the date of enactment of this Act.

(b) CIVIL PENALTY PROVISIONS.—The amendments made by section 108(b) do not apply to a violation that occurs under a contract entered into before the date of enactment of this Act.

**Subtitle B—Leadership of the Office of Nuclear Energy, Science, and Technology and the Office of Science**

**SEC. 111. ASSISTANT SECRETARIES.**

(a) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the matter preceding paragraph (1) by striking “eight” and inserting “ten”.

(b) FUNCTIONS.—On appointment of the 2 additional Assistant Secretaries of Energy under the amendment made by subsection (a), the Secretary shall assign—

(1) to one of the Assistant Secretaries, the functions performed by the Director of the Office of Science as of the date of enactment of this Act; and

(2) to the other, the functions performed by the Director of the Office of Nuclear Energy, Science, and Technology as of that date.

**Subtitle C—Funding of Certain Department of Energy Programs**

**SEC. 121. ESTABLISHMENT OF PROGRAMS.**

The Secretary shall establish or continue programs administered by the Office of Nuclear Energy, Science, and Technology to—

(1) support the Nuclear Energy Research Initiative, the Nuclear Energy Plant Optimization Program, and the Nuclear Energy Technology Program;

(2) encourage investments to increase the electricity capacity at commercial nuclear plants in existence on the date of enactment of this Act;

(3) ensure continued viability of a domestic capability for uranium mining, conversion, and enrichment industries; and

(4) support university nuclear engineering education research and infrastructure programs, including closely related specialties such as health physics, actinide chemistry, and material sciences.

**SEC. 122. NUCLEAR ENERGY RESEARCH INITIATIVE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for a Nuclear Energy Research Initiative to be managed by the Director of the Office of Nuclear Energy, Science, and Technology for grants to be competitively awarded and subject to peer review for research relating to nuclear energy—

(1) \$60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the Nuclear Energy Research Initiative.

**SEC. 123. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for a Nuclear Energy Plant Optimization Program to be managed by the Director of the Office of Nuclear Energy, Science, and Technology for a joint program with industry cost-shared by at least 50 percent and subject to annual review by the Secretary of Energy's Nuclear Energy Research Advisory Committee—

(1) \$15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the Nuclear Energy Plant Optimization Program.

**SEC. 124. UPGRATING OF NUCLEAR PLANT OPERATIONS.**

(a) IN GENERAL.—The Secretary, to the extent funds are available, shall reimburse costs incurred by a licensee of a nuclear plant as provided in this section.

(b) PAYMENT OF COMMISSION USER FEES.—In carrying out subsection (a), the Secretary shall reimburse all user fees incurred by a licensee of a nuclear plant for obtaining the approval of the Commission to achieve a permanent increase in the rated electricity capacity of the licensee's nuclear plant if the licensee achieves the increased capacity before December 31, 2004.

(c) PREFERENCE.—Preference shall be given by the Secretary to projects in which a single uprating operation can benefit multiple domestic nuclear power reactors.

(d) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—In addition to payments made under subsection (a), the Secretary shall offer an incentive payment equal to 10 percent of the capital improvement cost resulting in a permanent increase of at least 5 percent in the rated electricity capacity of the licensee's nuclear plant if the licensee achieves the increased capacity rating before December 31, 2004.

(2) LIMITATION.—No incentive payment under paragraph (1) associated with any single nuclear unit shall exceed \$1,000,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2002 and 2003.

**SEC. 125. UNIVERSITY PROGRAMS.**

(a) IN GENERAL.—The Secretary may, as provided in this section, provide grants and other forms of payment to further the national goal of producing well-educated graduates in nuclear engineering and closely related specialties that support nuclear energy programs such as health physics, actinide chemistry, and material sciences.

(b) SUPPORT FOR UNIVERSITY RESEARCH REACTORS.—The Secretary may provide grants and other forms of payments for plant upgrading to universities in the United States that operate and maintain nuclear research reactors.

(c) SUPPORT FOR UNIVERSITY RESEARCH AND DEVELOPMENT.—The Secretary may provide grants and other forms of payment for research and development work by faculty, staff, and students associated with nuclear engineering programs and closely related specialties at universities in the United States.

(d) SUPPORT FOR NUCLEAR ENGINEERING STUDENTS AND FACULTY.—The Secretary may provide fellowships, scholarships, and other support to students and to departments of nuclear engineering and closely related specialties at universities in the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$34,200,000 for fiscal year 2002, of which—

(A) \$13,000,000 shall be available to carry out subsection (b);

(B) \$10,200,000 shall be available to carry out subsection (c) of which not less than \$2,000,000 shall be available to support health physics programs; and

(C) \$11,000,000 shall be available to carry out subsection (d) of which not less than \$2,000,000 shall be available to support health physics programs; and

(2) such sums as are necessary for subsequent fiscal years.

**SEC. 126. PROHIBITION OF COMMERCIAL SALES OF URANIUM AND CONVERSION HELD BY THE DEPARTMENT OF ENERGY UNTIL 2006.**

Section 3112(b) of the USEC Privatization Act (42 U.S.C. 2297h-10(b)) is amended by striking paragraph (2) and inserting the following:

“(2) SALE OF URANIUM HEXAFLUORIDE.—

“(A) IN GENERAL.—The Secretary shall—

“(i) sell and receive payment for the uranium hexafluoride transferred to the Secretary under paragraph (1); and

“(ii) refrain from sales of its surplus natural uranium and conversion services through 2006 (except sales or transfers to the Tennessee Valley Authority in relation to the Department's HEU or Tritium programs, minor quantities associated with site clean-up projects, or the Department of Energy research reactor sales program).

“(B) REQUIREMENTS.—Under subparagraph (A)(i), uranium hexafluoride shall be sold—

“(i) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or

“(ii) in 2006 for consumption by end users in the United States not before January 1, 2007, and in subsequent years, in volumes not to exceed 3,000,000 pounds U<sub>3</sub>O<sub>8</sub> equivalent per year.”.

**SEC. 127. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.**

(a) IN GENERAL.—For Department of Energy expenses necessary in providing to Converdyn Incorporated a payment for losses associated with providing conversion services for the production of low-enriched uranium (excluding imports related to actions taken under the United States/Russia HEU Agreement), there is authorized to be appropriated \$8,000,000 for each of fiscal years 2002, 2003, and 2004.

(b) RATE.—The payment shall be at a rate, determined by the Secretary, that—

(1)(A) is based on the difference between Converdyn's costs and its sale price for providing conversion services for the production of low-enriched uranium fuel; but

(B) does not exceed the amount appropriated under subsection (a); and

(2) shall be based contingent on submission to the Secretary of a financial statement satisfactory to the Secretary that is certified by an independent auditor for each year.

(c) TIMING.—A payment under subsection (a) shall be provided as soon as practicable after receipt and verification of the financial statement submitted under subsection (b).

**SEC. 128. PORTSMOUTH GASEOUS DIFFUSION PLANT.**

(a) IN GENERAL.—The Secretary may proceed with actions required to place the Portsmouth gaseous diffusion plant into cold standby condition for a period of 5 years.

(b) PLANT CONDITION.—In the cold standby condition, the plant shall be in a condition that—

(1) would allow its restart, for production of 3,000,000 separative work units per year, to meet domestic demand for enrichment services; and

(2) will facilitate the future decontamination and decommissioning of the plant.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) \$36,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003, 2004, and 2005.

**SEC. 129. NUCLEAR GENERATION REPORT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to Congress a report on the state of nuclear power generation in the United States.

(b) CONTENTS.—The report shall—

(1) provide current and historical detail regarding—

(A) the number of commercial nuclear plants and the amount of electricity generated; and

(B) the safety record of commercial nuclear plants;

(2) review the status of the relicensing process for commercial nuclear plants, including—

(A) current and anticipated applications; and

(B) for each current and anticipated application—

(i) the anticipated length of time for a license renewal application to be processed; and

(ii) the current and anticipated costs of each license renewal;

(3) assess the capability of the Commission to evaluate licenses for new advanced reactor designs and discuss the confirmatory and anticipatory research activities needed to support that capability;

(4) detail the efforts of the Commission to prepare for potential new commercial nuclear plants, including evaluation of any new plant design and the licensing process for nuclear plants;

(5) state the anticipated length of time for a new plant license to be processed and the anticipated cost of such a process; and

(6) include recommendations for improvements in each of the processes reviewed.

## TITLE II—CONSTRUCTION OF NUCLEAR PLANTS

### SEC. 201. ESTABLISHMENT OF PROGRAMS.

(a) SECRETARY.—The Secretary shall establish a program within the Office of Nuclear Energy, Science, and Technology to—

(1) demonstrate the Nuclear Regulatory Commission Early Site Permit process;

(2) evaluate opportunities for completion of partially constructed nuclear plants; and

(3) develop a report assessing opportunities for Generation IV reactors.

(b) COMMISSION.—The Commission shall develop a research program to support regulatory actions relating to new nuclear plant technologies.

### SEC. 202. NUCLEAR PLANT COMPLETION INITIATIVE.

(a) IN GENERAL.—The Secretary shall solicit information on United States nuclear plants requiring additional capital investment before becoming operational or being returned to operation to determine which, if any, should be included in a study of the feasibility of completing and operating some or all of the nuclear plants by December 31, 2004, considering technical and economic factors.

(b) IDENTIFICATION OF UNFINISHED NUCLEAR PLANTS.—The Secretary shall convene a panel of experts to—

(1) review information obtained under subsection (a); and

(2) identify which unfinished nuclear plants should be included in a feasibility study.

(c) TECHNICAL AND ECONOMIC COMPLETION ASSESSMENT.—On completion of the identification of candidate nuclear plants under subsection (b), the Secretary shall commence a detailed technical and economic completion assessment that includes, on a unit-specific basis, all technical and economic information necessary to permit a decision on the feasibility of completing work on any or all of the nuclear plants identified under subsection (b).

(d) SOLICITATION OF PROPOSALS.—After making the results of the feasibility study under subsection (c) available to the public, the Secretary shall solicit proposals for completing construction on any or all of the nuclear plants assessed under subsection (c).

(e) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—The Secretary shall reconvene the panel of experts designated under subsection (b) to review and select the nuclear plants to be pursued, taking into consideration any or all of the following factors:

(A) Location of the nuclear plant and the regional need for expanded power capability.

(B) Time to completion.

(C) Economic and technical viability for completion of the nuclear plant.

(D) Financial capability of the offeror.

(E) Extent of support from regional and State officials.

(F) Experience and past performance of the members of the offeror in siting, constructing, or operating nuclear generating facilities.

(G) Lowest cost to the Government.

(2) REGIONAL AND STATE SUPPORT.—No proposal shall be accepted without endorsement by the State Governor and by the elected governing bodies of—

(A) each political subdivision in which the nuclear plant is located; and

(B) each other political subdivision that the Secretary determines has a substantial interest in the completion of the nuclear plant.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than June 1, 2002, the Secretary shall submit to Congress a report describing the reactors identified for completion under subsection (e).

(2) CONTENTS.—The report shall—

(A) detail the findings under each of the criteria specified in subsection (e); and

(B) include recommendations for action by Congress to authorize actions that may be initiated in fiscal year 2003 to expedite completion of the reactors.

(3) CONSIDERATIONS.—In making recommendations under paragraph (2)(B), the Secretary shall consider—

(A) the advisability of authorizing payment by the Government of Commission user fees (including consideration of the estimated cost to the Government of paying such fees); and

(B) other appropriate considerations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000 for fiscal year 2002.

### SEC. 203. EARLY SITE PERMIT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall initiate a program of Government/private partnership demonstration projects to encourage private sector applications to the Commission for approval of sites that are potentially suitable to be used for the construction of future nuclear power generating facilities.

(b) PROJECTS.—Not later than 60 days after the date of enactment of this Act, the Secretary shall issue a solicitation of offers for proposals from private sector entities to enter into partnerships with the Secretary to—

(1) demonstrate the Early Site Permit process; and

(2) create a bank of approved sites by December 31, 2003.

(c) CRITERIA FOR PROPOSALS.—A proposal submitted under subsection (b) shall—

(1) identify a site owned by the offeror that is suitable for the construction and operation of a new nuclear plant; and

(2) state the agreement of the offeror to pay not less than ½ of the costs of—

(A) preparation of an application to the Commission for an Early Site Permit for the site identified under paragraph (1); and

(B) review of the application by the Commission.

(d) SELECTION OF PROPOSALS.—The Secretary shall establish a competitive process to review and select the projects to be pursued, taking into consideration the following:

(1) Time to prepare the application.

(2) Site qualities or characteristics that could affect the duration of application review.

(3) The financial capability of the offeror.

(4) The experience of the offeror in siting, constructing, or operating nuclear plants.

(5) The support of regional and State officials.

(6) The need for new electricity supply in the vicinity of the site, or proximity to suitable transmission lines.

(7) Lowest cost to the Government.

(e) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with up to 3 offerors selected through the competitive process to pay not more than ½ of the costs incurred by the parties to the agreements for—

(1) preparation of an application to the Commission for an Early Site Permit for the site; and

(2) review of the application by the Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2002 and 2003, to remain available until expended.

### SEC. 204. NUCLEAR ENERGY TECHNOLOGY STUDY FOR GENERATION IV REACTORS.

(a) IN GENERAL.—The Secretary shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment.

(b) UPGRADES AND ADDITIONS.—The Secretary may make upgrades or additions to the nuclear energy research facility infrastructure as needed to carry out the study under subsection (a).

(c) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems established by the Nuclear Energy Research Advisory Committee, including—

(1) economics competitive with natural gas-fueled generators;

(2) enhanced safety features or passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of enactment of this Act;

(4) highly proliferation resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of enactment of this Act.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(1) the Commission, with respect to evaluation of regulatory issues; and

(2) the International Atomic Energy Agency, with respect to international safeguards.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the roadmap and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system for demonstration through a public/private partnership; and

(G) a recommendation for appropriate involvement of the Commission.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) \$50,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

#### **SEC. 205. RESEARCH SUPPORTING REGULATORY PROCESSES FOR NEW REACTOR TECHNOLOGIES AND DESIGNS.**

(a) **IN GENERAL.**—The Commission shall develop a comprehensive research program to support resolution of potential licensing issues associated with new reactor concepts and new technologies that may be incorporated into new or current designs of nuclear plants.

(b) **IDENTIFICATION OF CANDIDATE DESIGNS.**—The Commission shall work with the Office of Nuclear Energy, Science, and Technology and the nuclear industry to identify candidate designs to be addressed by the program.

(c) **ACTIVITIES TO BE INCLUDED.**—The research shall include—

(1) modeling, analyses, tests, and experiments as required to provide input into total system behavior and response to hypothesized accidents; and

(2) consideration of new reactor technologies that may affect—

(A) risk-informed licensing of new plants;

(B) behavior of advanced fuels;

(C) evolving environmental considerations relative to spent fuel management and health effect standards;

(D) new technologies (such as advanced sensors, digital instrumentation, and control) and human factors that affect the application of new technology to current plants; and

(E) other emerging technical issues.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section—

(1) \$25,000,000 for fiscal year 2002; and

(2) such sums as are necessary for subsequent fiscal years.

#### **TITLE III—EVALUATIONS OF NUCLEAR ENERGY**

##### **SEC. 301. ENVIRONMENTALLY PREFERABLE PURCHASING.**

(a) **ACQUISITION.**—For the purposes of Executive Order No. 13101 (3 C.F.R. 210 (1998)) and policies established by the Office of Federal Procurement Policy or other executive branch offices for the acquisition or use of environmentally preferable products (as defined in section 201 of the Executive order), electricity generated by a nuclear plant shall be considered to be an environmentally preferable product.

(b) **PROCUREMENT.**—No Federal procurement policy or program may—

(1) discriminate against or exclude nuclear generated electricity in making purchasing decisions; or

(2) subscribe to product certification programs or recommend product purchases that exclude nuclear electricity.

##### **SEC. 302. EMISSION-FREE CONTROL MEASURES UNDER A STATE IMPLEMENTATION PLAN.**

(a) **DEFINITIONS.**—In this section:

(1) **CRITERIA AIR POLLUTANT.**—The term “criteria air pollutant” means a pollutant

listed under section 108(a) of the Clean Air Act (42 U.S.C. 7408(a)).

(2) **EMISSION-FREE ELECTRICITY SOURCE.**—The term “emission-free electricity source” means—

(A) a facility that generates electricity without emitting criteria pollutants, hazardous pollutants, or greenhouse gases as a result of onsite operations of the facility; and

(B) a facility that generates electricity using nuclear fuel that meets all applicable standards for radiological emissions under section 112 of the Clean Air Act (42 U.S.C. 7412).

(3) **GREENHOUSE GAS.**—The term “greenhouse gas” means a natural or anthropogenic gaseous constituent of the atmosphere that absorbs and re-emits infrared radiation.

(4) **HAZARDOUS POLLUTANT.**—The term “hazardous pollutant” has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(5) **IMPROVEMENT IN AVAILABILITY.**—The term “improvement in availability” means an increase in the amount of electricity produced by an emission-free electricity source that provides a commensurate reduction in output from emitting sources.

(6) **INCREASED EMISSION-FREE CAPACITY PROJECT.**—The term “increased emission-free capacity project” means a project to construct an emission-free electricity source or increase the rated capacity of an existing emission-free electricity source.

(b) **TREATMENT OF CERTAIN STATE ACTIONS AS CONTROL MEASURES.**—An action taken by a State to support the continued operation of an emission-free electricity source or to support an improvement in availability or an increased emission-free capacity project shall be considered to be a control measure for the purposes of section 110(a) of the Clean Air Act (42 U.S.C. 7410(a)).

(c) **ECONOMIC INCENTIVE PROGRAMS.**—

(1) **CRITERIA AIR POLLUTANTS AND HAZARDOUS POLLUTANTS.**—Emissions of criteria air pollutants or hazardous pollutants prevented or avoided by an improvement in availability or the operation of increased emission-free capacity shall be eligible for, and may not be excluded from, incentive programs used as control measures, including programs authorizing emission trades, revolving loan funds, tax benefits, and special financing programs.

(2) **GREENHOUSE GASES.**—Emissions of greenhouse gases prevented or avoided by an improvement in availability or the operation of increased emission-free capacity shall be eligible for, and may not be excluded from, incentive programs used as control measures on the national, regional State, or local level.

##### **SEC. 304. PROHIBITION OF DISCRIMINATION AGAINST EMISSION-FREE ELECTRICITY PROJECTS IN INTERNATIONAL DEVELOPMENT PROGRAMS.**

(a) **PROHIBITION.**—No Federal funds shall be used to support a domestic or international organization engaged in the financing, development, insuring, or underwriting of electricity production facilities if the activities fail to include emission-free electricity production facility projects that use nuclear fuel.

(b) **REQUEST FOR POLICIES.**—The Secretary of Energy shall request copies of all written policies regarding the eligibility of emission-free nuclear electricity production facilities for funding or support from international or domestic organizations engaged in the financing, development, insuring, or underwriting of electricity production facilities, including—

(1) the Agency for International Development;

(2) the World Bank;

(3) the Overseas Private Investment Corporation;

(4) the International Monetary Fund; and

(5) the Export-Import Bank.

#### **TITLE IV—DEVELOPMENT OF NATIONAL SPENT NUCLEAR FUEL STRATEGY**

##### **SEC. 401. FINDINGS.**

Congress finds that—

(1) before the Federal Government takes any irreversible action relating to the disposal of spent nuclear fuel, Congress must determine whether the spent fuel should be treated as waste subject to permanent burial or should be considered to be an energy resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

##### **SEC. 402. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.**

(a) **DEFINITIONS.**—In this section:

(1) **ASSOCIATE DIRECTOR.**—The term “Associate Director” means the Associate Director of the Office.

(2) **OFFICE.**—The term “Office” means the Office of Spent Nuclear Fuel Research established by subsection (b).

(b) **ESTABLISHMENT.**—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) **HEAD OF OFFICE.**—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(d) **DUTIES OF THE ASSOCIATE DIRECTOR.**—

(1) **IN GENERAL.**—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) **PARTICIPATION.**—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(3) **ACTIVITIES.**—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United States if the country in which the collaborator is located is unable to provide support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles

and reactors conducted by the Office of Nuclear Energy Science and Technology.

(e) GRANT AND CONTRACT AUTHORITY.—The Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in subsection (d)(3).

(f) REPORT.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

#### SEC. 403. ADVANCED FUEL RECYCLING TECHNOLOGY DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science, and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of electrometallurgical technology as a proliferation-resistant alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Nuclear Energy Research Advisory Committee.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the advanced fuel recycling technology development program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) \$10,000,000 for fiscal year 2002; and
- (2) such sums as are necessary for fiscal years 2003 through 2006.

#### TITLE V—NATIONAL ACCELERATOR SITE

##### SEC. 501. FINDINGS.

Congress finds that—

(1)(A) high-current proton accelerators are capable of producing significant quantities of neutrons through the spallation process without using a critical assembly; and

(B) the availability of high-neutron fluences enables a wide range of missions of major national importance to be conducted;

(2)(A) public acceptance of repositories, whether for spent fuel or for final waste products from spent fuel, can be enhanced if the radio-toxicity of the materials in the repository can be reduced;

(B) transmutation of long-lived radioactive species by an intense neutron source provides an approach to such a reduction in toxicity; and

(C) research and development in this area (which, when the source of neutrons is derived from an accelerator, is called “accelerator transmutation of waste”) should be an important part of a national spent fuel strategy;

(3)(A) nuclear weapons require a reliable source of tritium;

(B) the Department of Energy has identified production of tritium in a commercial light water reactor as the first option to be pursued;

(C) the importance of tritium supply is of sufficient magnitude that a backup technology should be demonstrated and available for rapid scale-up to full requirements;

(D) evaluation of tritium production by a high-current accelerator has been underway; and

(E) accelerator production of tritium should be demonstrated, so that the capability can be scaled up to levels required for the weapons stockpile if difficulties arise with the reactor approach;

(4)(A) radioisotopes are required in many medical procedures;

(B) research on new medical procedures is adversely affected by the limited availability of production facilities for certain radioisotopes; and

(C) high-current accelerators are an important source of radioisotopes, and are best suited for production of proton-rich isotopes; and

(5)(A) a spallation source provides a continuum of neutron energies; and

(B) the energy spectrum of neutrons can be altered and tailored to allow a wide range of experiments in support of nuclear engineering studies of alternative reactor configurations, including studies of materials that may be used in future fission or fusion systems.

##### SEC. 502. DEFINITIONS.

In this title:

(1) OFFICE.—The term “Office” means the Office of Nuclear Energy, Science, and Technology of the Department of Energy.

(2) PROGRAM.—The term “program” means the Advanced Accelerator Applications Program established under section 503.

(3) PROPOSAL.—The term “proposal” means the proposal for a location supporting the missions identified for the program developed under section 503.

##### SEC. 503. ADVANCED ACCELERATOR APPLICATIONS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to be known as the “Advanced Accelerator Applications Program”.

(b) MISSION.—The mission of the program shall include conducting scientific or engineering research, development, and demonstrations on—

(1) accelerator production of tritium as a backup technology;

(2) transmutation of spent nuclear fuel and waste;

(3) production of radioisotopes;

(4) advanced nuclear engineering concepts, including material science issues; and

(5) other applications that may be identified.

(c) ADMINISTRATION.—The program shall be administered by the Office—

(1) in consultation with the National Nuclear Security Administration, for all activities related to tritium production; and

(2) in consultation with the Office of Civilian Radioactive Waste Management, for all activities relating to the impact of waste transmutation on repository requirements.

(d) PARTICIPATION.—The Office shall encourage participation of international collaborators, industrial partners, national laboratories, and, through support for new graduate engineering and science students and professors, universities.

(e) PROPOSAL OF LOCATION.—

(1) IN GENERAL.—The Office shall develop a detailed proposal for a location supporting the missions identified for the program.

(2) CONTENTS.—The proposal shall—

(A) recommend capabilities for the accelerator and for each major research or production effort;

(B) include development of a comprehensive site plan supporting those capabilities;

(C) specify a detailed time line for construction and operation of all activities;

(D) identify opportunities for involvement of the private sector in production and use of radioisotopes;

(E) contain a recommendation for funding required to accomplish the proposal in future fiscal years; and

(F) identify required site characteristics.

(3) PRELIMINARY ENVIRONMENTAL IMPACT ASSESSMENT.—As part of the process of identification of required site characteristics, the Secretary shall undertake a preliminary environmental impact assessment of a range of sites.

(4) SUBMISSION TO CONGRESS.—Not later than March 31, 2002, the Secretary shall submit to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate and the Committee on Science and Committee on Appropriations of the House of Representatives a report describing the proposal.

(f) COMPETITION.—

(1) IN GENERAL.—The Secretary shall use the proposal to conduct a nationwide competition among potential sites.

(2) REPORT.—Not later than June 30, 2003, the Secretary shall submit to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate and the Committee on Science and the Committee on Appropriations of the House of Representatives a report that contains an evaluation of competing proposals and a recommendation of a final site and for funding requirements to proceed with construction in future fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROPOSAL.—There is authorized to be appropriated for development of the proposal \$20,000,000 for each of fiscal years 2002 and 2003.

(2) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—There are authorized to be appropriated for research, development, and demonstration activities of the program—

(A) \$120,000,000 for fiscal year 2002; and

(B) such sums as are necessary for subsequent fiscal years.

#### TITLE VI—NUCLEAR REGULATORY COMMISSION REFORM

##### SEC. 601. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) in subsection f., by striking “Atomic Energy Commission” and inserting “Nuclear Regulatory Commission”;

(2) by redesignating subsection jj. as subsection ll.; and

(3) by adding at the end the following:

“jj. FEDERAL NUCLEAR OBLIGATION.—The term ‘Federal nuclear obligation’ means—

“(1) a nuclear decommissioning obligation;

“(2) a fee required to be paid to the Federal Government by a licensee for the storage, transportation, or disposal of spent nuclear fuel and high-level radioactive waste, including a fee required under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.); and

“(3) an assessment by the Federal Government to fund the cost of decontamination and decommissioning of uranium enrichment facilities, including an assessment required under chapter 28 of the Energy Policy Act of 1992 (42 U.S.C. 2297g).

“kk. NUCLEAR DECOMMISSIONING OBLIGATION.—The term ‘nuclear decommissioning obligation’ means an expense incurred to ensure the continued protection of the public from the dangers of any residual radioactivity or other hazards present at a facility at the time the facility is decommissioned, including all costs of actions required under rules, regulations and orders of the Commission for—

“(1) entombing, dismantling and decommissioning a facility; and

“(2) administrative, preparatory, security and radiation monitoring expenses associated with entombing, dismantling, and decommissioning a facility.”.

##### SEC. 602. OFFICE LOCATION.

Section 23 of the Atomic Energy Act of 1954 (42 U.S.C. 2033) is amended by striking “; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia”.

##### SEC. 603. LICENSE PERIOD.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking “c. Each such” and inserting the following:

“c. LICENSE PERIOD.—

“(1) IN GENERAL.—Each such”; and

(2) by adding at the end the following:

“(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185(b) are met.”.

#### SEC. 604. ELIMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.

(a) COMMERCIAL LICENSES.—Section 103d. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(d)) is amended by striking the second sentence.

(b) MEDICAL THERAPY AND RESEARCH AND DEVELOPMENT.—Section 104d. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(d)) is amended by striking the second sentence.

#### SEC. 605. ELIMINATION OF DUPLICATIVE ANTI-TRUST REVIEW.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking subsection c. and inserting the following:

“c. CONDITIONS.—

“(1) IN GENERAL.—A condition for a grant of a license imposed by the Commission under this section in effect on the date of enactment of the Nuclear Assets Restructuring Reform Act of 2001 shall remain in effect until the condition is modified or removed by the Commission.

“(2) MODIFICATION.—If a person that is licensed to construct or operate a utilization or production facility applies for reconsideration under this section of a condition imposed in the person's license, the Commission shall conduct a proceeding, on an expedited basis, to determine whether the license condition—

“(A) is necessary to ensure compliance with section 105a.; or

“(B) should be modified or removed.”.

#### SEC. 606. GIFT ACCEPTANCE AUTHORITY.

(a) IN GENERAL.—Section 161g. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(g)) is amended—

(1) by inserting “(1)” after “(g)”;

(2) by striking “this Act;” and inserting “this Act; or”; and

(3) by adding at the end the following:

“(2) accept, hold, utilize, and administer gifts of real and personal property (not including money) for the purpose of aiding or facilitating the work of the Commission.”.

(b) CRITERIA FOR ACCEPTANCE OF GIFTS.—

(1) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

#### “SEC. 170C. CRITERIA FOR ACCEPTANCE OF GIFTS.

“(a) IN GENERAL.—The Commission shall establish written criteria for determining whether to accept gifts under section 161g.(2).

“(b) CONSIDERATIONS.—The criteria under subsection (a) shall take into consideration whether the acceptance of a gift would compromise the integrity of, or the appearance of the integrity of, the Commission or any officer or employee of the Commission.”.

(2) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170C. Criteria for acceptance of gifts.”.

#### SEC. 607. AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.

Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking “and (3)” and inserting “(3)”; and

(2) by inserting before the semicolon at the end the following: “, and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility”.

#### SEC. 608. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.

(a) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 606(b)) is amended—

(1) in section 161, by striking subsection k. and inserting the following:

“k. authorize to carry a firearm in the performance of official duties such of its members, officers, and employees, such of the employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities, and such of the employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission or in the protection of property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities, as the Commission considers necessary in the interest of the common defense and security;” and

(2) by adding at the end the following:

#### “SEC. 170D. CARRYING OF FIREARMS.

“(a) AUTHORITY TO MAKE ARREST.—

(1) IN GENERAL.—A person authorized under section 161k. to carry a firearm may, while in the performance of, and in connection with, official duties, arrest an individual without a warrant for any offense against the United States committed in the presence of the person or for any felony under the laws of the United States if the person has a reasonable ground to believe that the individual has committed or is committing such a felony.

“(2) LIMITATION.—An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to make an arrest under paragraph (1) may make an arrest only—

“(A) when the individual is within, or is in flight directly from, the area in which the offense was committed; and

“(B) in the enforcement of—

“(i) a law regarding the property of the United States in the custody of the Department of Energy, the Commission, or a contractor of the Department of Energy or Commission or a licensee or certificate holder of the Commission;

“(ii) a law applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission under section 161k.;

“(iii) a law applicable to property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission; or

“(iv) any provision of this Act that subjects an offender to a fine, imprisonment, or both.

“(3) OTHER AUTHORITY.—The arrest authority conferred by this section is in addition to any arrest authority under other law.

“(4) GUIDELINES.—The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement section 161k. and this subsection.”.

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by section 7(b)(2)) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170D. Carrying of firearms.”.

#### SEC. 609. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking “, or which operates any facility regulated or certified under section 1701 or 1702;”;

(2) by striking “483a of title 31 of the United States Code” and inserting “9701 of title 31, United States Code,”; and

(3) by inserting before the period at the end the following: “, and, commencing October 1, 2002, prescribe and collect from any other Government agency any fee, charge, or price that the Commission may require in accordance with section 9701 of title 31, United States Code, or any other law”.

#### SEC. 610. HEARING PROCEDURES.

Section 189a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended by adding at the end the following:

“(C) HEARINGS.—A hearing under this section shall be conducted using informal adjudicatory procedures established under sections 553 and 555 of title 5, United States Code, unless the Commission determines that formal adjudicatory procedures are necessary—

“(i) to develop a sufficient record; or

“(ii) to achieve fairness.”.

#### SEC. 611. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting “or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act” before the period at the end.

#### SEC. 612. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking “storage facility” and inserting “storage, treatment, or disposal facility”;;

(2) in paragraph (3)—

(A) by striking “such a utilization facility” and inserting “a utilization facility licensed under this Act”; and

(B) by striking “or” at the end;

(3) in paragraph (4)—

(A) by striking “facility licensed” and inserting “or nuclear fuel fabrication facility licensed or certified”; and

(B) by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following:

“(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the person knows or reasonably should know that there is a significant possibility that the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;”.

#### SEC. 613. NUCLEAR DECOMMISSIONING OBLIGATIONS OF NONLICENSEES.

(a) IN GENERAL.—The Atomic Energy Act of 1954 is amended by inserting after section 241 (42 U.S.C. 2015) the following:

**"SEC. 242. NUCLEAR DECOMMISSIONING OBLIGATIONS OF NONLICENSEES.**

"(a) DEFINITION OF FACILITY.—In this section, the term 'facility' means a commercial nuclear electric generating facility for which a Federal nuclear obligation is incurred.

"(b) DECOMMISSIONING OBLIGATIONS.—After public notice and in accordance with section 181, the Commission shall establish by rule, regulation, or order any requirement that the Commission considers necessary to ensure that a person that is not a licensee (including a former licensee) complies fully with any nuclear decommissioning obligation."

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by inserting after the item relating to section 241 the following:

"Sec. 242. Nuclear decommissioning obligations of nonlicensees."

**SEC. 614. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title take effect on the date of enactment of this Act.

(b) RECOMMISSIONING AND LICENSE REMOVAL.—The amendment made by section 613 takes effect on the date that is 180 days after the date of enactment of this Act.

By Mr. HOLLINGS:

S. 1668. A bill to amend the Communications Act of 1934 to strengthen the limitations on the holding of any license permit, operating authority by a foreign government or any entity controlled by a foreign government; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, today I reintroduce legislation to clarify rules governing the takeover of U.S. Telecommunications providers by companies owned by foreign governments. The original rules in this area were established by statute in the 1930s, and while the law has not changed, the FCC's interpretations of this statute has.

Today's legislation is almost identical to the legislation that I introduced last year on this topic. I am pleased to announce that this year I am joined in the effort by the Chairman of the House Energy and Commerce Committee, BILLY TAUZIN.

In the intervening year the FCC has approved several transactions involving foreign governments. I am disappointed by these actions and believe that they involve a misreading of the current statute.

The legislation I introduce today will bar outright the transfer or issuance of telecommunications licenses to providers who are more than 25 percent owned by a foreign government. It would also bar the transfer of such licenses to companies controlled by a foreign government.

My reasons for introducing this legislation have not changed from last year. Nevertheless the events of the past year confirm more than ever my conviction that foreign governments should not be permitted to own U.S. telecommunications licenses.

By Mr. HOLLINGS (for himself and Mr. MCCAIN) (by request):

S. 1669. A bill to authorize appropriations for hazardous material transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, as a courtesy to President Bush and Secretary of Transportation Mineta, I am today introducing their proposed legislation to reauthorize hazardous materials programs.

While I appreciate the Administration's willingness to offer a reauthorization plan, I disagree strongly with several of its provisions. I plan to work with other members of the Commerce Committee to write and introduce legislation to reauthorize the Hazardous Materials Transportation Act later this Congress.

Every year, our Nation transports 4 billion tons of hazardous materials via 800,000 shipments. In 2000, there were 17,347 hazardous materials incidents related to transportation in the United States: 1,419 via air transportation, 14,861 via highway transportation, 1,052 via railway transportation, and 15 via water transportation. These incidents are mostly minor releases of chemicals; 244 incidents caused injuries, and there were 13 deaths, 12 deaths via highway transportation, and 1 death via railway transportation. Of course, one death is too many. That is why we must recommit ourselves to the protection of the brave workers who take on the risks of transporting these dangerous materials and the communities in which these products are produced and through which they are moved.

I am concerned about several provisions of the administration plan, including one that would effectively eliminate the authority of the Occupational Safety and Health Administration, OSHA, to protect workers that handle and transport hazardous materials. It is important that workers are protected and appropriate standards for the handling of hazardous materials are established, including rules for personal protective equipment and the monitoring of exposure levels and medical conditions. Protecting the people that handle and transport these hazardous materials must remain paramount.

The proposed legislation also increases from 2 to 4 years the time between reviews for exemptions from hazardous materials regulations. In our current security environment, creating more exemptions from hazardous materials regulations may not be the most prudent course of action. We also must maintain funding for non-profit organizations to train workers in the handling of hazardous materials.

On another matter, the Administration plan also would repeal some of the requirements Congress has placed on the Department of Transportation in managing these hazardous materials programs. I would caution the Transportation Department not to seek repeal of the requirements and actions that we in Congress have requested of

them. We mandated those actions for a reason, and we expect that they will be carried out.

As I work with my colleagues to write a hazardous materials reauthorization bill, we will take into account the recently exposed vulnerabilities of hazardous materials to terrorist attacks. The 1,000 pages of Federal Hazardous Materials Transportation Regulations were designed primarily to promote safety during transportation, not to ensure security and reduce risks from terrorist attacks. Unattended parked vehicles and routing are just two examples of the security concerns associated with the transportation of hazardous materials. We are considering a range of options to address these security threats. We also must increase funding for training local emergency response units to handle hazardous materials accidents.

While we may disagree over how to approach some of these hazardous materials issues, I thank the administration for offering their proposal. I look forward to working with them in the coming months to make the transportation of hazardous materials a safe endeavor for both hazardous materials workers and the public.

I ask unanimous consent that the text of the administration's bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1669

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Material Transportation Safety Reauthorization Act of 2001".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. General regulatory authority.
- Sec. 5. Representation and tampering.
- Sec. 6. Highly radioactive material.
- Sec. 7. Handling criteria.
- Sec. 8. Hazmat employee training requirements and grants.
- Sec. 9. Registration.
- Sec. 10. Motor carrier safety.
- Sec. 11. Shipping paper retention.
- Sec. 12. Rail tank cars.
- Sec. 13. Unsatisfactory safety rating.
- Sec. 14. Public sector training curriculum.
- Sec. 15. Planning and training grants.
- Sec. 16. Special permits and exclusions.
- Sec. 17. Inspectors.
- Sec. 18. Uniform forms and procedures.
- Sec. 19. Administrative.
- Sec. 20. Enforcement.
- Sec. 21. Penalties.

Sec. 22. Preemption.  
 Sec. 23. Relationship to other laws.  
 Sec. 24. Judicial review.  
 Sec. 25. Authorization of appropriations.  
 Sec. 26. Postal service civil penalty authority.

## SEC. 2. PURPOSE.

Section 5101 is revised to read as follows:

### “§ 5101. Purpose

“The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.”.

## SEC. 3. DEFINITIONS.

Section 5102 is amended—

(1) by revising paragraph (1) to read as follows:

“(1) ‘commerce’ means trade or transportation in the jurisdiction of the United States—

“(A) between a place in a State and a place outside of the State;

“(B) that affects trade or transportation between a place in a State and a place outside of the State; or

“(C) on a United States-registered aircraft.”;

(2) by revising paragraphs (3) and (4) to read as follows:

“(3) ‘hazmat employee’ means an individual who—

“(A)(i) is employed or used by a hazmat employer; or

“(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft transporting hazardous material in commerce; and

“(B) performs a function regulated by the Secretary under section 5103(b)(1) of this chapter.

“(4) ‘hazmat employer’ means a person that—

“(A)(i) has a least one hazmat employee; or

“(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft transporting hazardous material in commerce; and

“(B) performs, or employs or uses at least one hazmat employee to perform, a function regulated by the Secretary under section 5103(b)(1) of this chapter.”;

(3) in paragraph (5), by striking “condition that presents” and inserting “condition related to a hazardous material that presents”;

(4) in paragraph (7), by striking “title” and inserting “title, except a freight forwarder is included only if performing a function related to highway transportation”;

(5) in paragraph (8), by striking “national response team” each place it appears and inserting “National Response Team,” and by striking “national contingency plan” and inserting “National Contingency Plan”;

(6) in paragraph (9), by revising subparagraph (A) to read as follows:

“(A) includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce, transporting hazardous material to further a commercial enterprise, or manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce; but”.

## SEC. 4. GENERAL REGULATORY AUTHORITY.

Section 5103 is amended—

(1) by revising subsection (a) to read as follows:

“(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary of Transportation shall designate material (including an explosive; radioactive material; infectious substance; flammable or combustible liquid, solid or gas; toxic, oxidizing or corrosive ma-

terial; and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.”; and

(2) in subsection (b)(1), by revising subparagraph (A) to read as follows:

“(A) apply to a person that—

“(i) transports a hazardous material in commerce;

“(ii) causes a hazardous material to be transported in commerce;

“(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce;

“(iv) prepares, accepts, or rejects hazardous material for transportation in commerce;

“(v) is responsible for the safety of transporting hazardous material in commerce;

“(vi) certifies compliance with any requirement issued under this chapter; or

“(vii) misrepresents whether it is engaged in any of the above activities; and”.

## SEC. 5. REPRESENTATION AND TAMPERING.

Section 5104 is amended—

(1) in subsection (a), by striking “A person” and inserting “No person”;

(2) by revising subsection (a)(1) to read as follows:

“(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter if it does not conform to each applicable regulation prescribed under this chapter; or”;

(3) in paragraph (a)(2), by striking “only if” and inserting “unless”; and

(4) by revising subsection (b) to read as follows:

“(b) TAMPERING.—No person may, without authorization from the owner or custodian, alter, remove, destroy, or tamper with—

“(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

“(2) a package, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.”.

## SEC. 6. HIGHLY RADIOACTIVE MATERIAL.

Section 5105 is amended by striking subsections (d) and (e).

## SEC. 7. HANDLING CRITERIA.

Chapter 51 is amended by striking section 5106 and striking the corresponding item in the analysis of chapter 51.

## SEC. 8. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) Section 5107 is amended by—

(1) striking “or duplicate” in subsection (d);

(2) striking “section 5127(c)(3)” in subsection (e) and inserting “section 5128”; and

(3) striking “and sections 5106, 5108(a)-(g)(1) and (h), and 5109 of this title” in subsection (f)(2).

(b) Notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1), an action of the Secretary of Transportation under chapter 51 of title 49, United States Code, does not preclude the Secretary of Labor from prescribing or enforcing standards, regulations or requirements regarding—

(1) hazardous materials employee training, or

(2) the occupational safety or health protection of employees responding to a release of hazardous materials.

## SEC. 9. REGISTRATION.

Section 5108 is amended—

(1) by striking “class A or B explosive” in subsection (a)(1)(B) and inserting “Division 1.1, 1.2, or 1.3 explosive material”;

(2) by revising subsection (a)(2)(B) to read as follows:

“(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting a hazardous material in commerce.”;

(3) by revising subsection (b)(1)(C) to read as follows:

“(C) each State in which the person carries out any of the activities.”;

(4) by revising subsection (c) to read as follows:

“(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement in accordance with regulations issued by the Secretary.”;

(5) in subsection (g)(1), by striking “may” and inserting “shall”; and

(6) in subsection (i)(2)(B), by striking “State,” and inserting “State, Indian tribe.”.

## SEC. 10. MOTOR CARRIER SAFETY.

Chapter 51 is amended by striking section 5109 and striking the corresponding item in the analysis of chapter 51.

## SEC. 11. SHIPPING PAPER RETENTION.

Section 5110 is amended—

(1) in subsection (a), by striking “under subsection (b) of this section” and inserting “by regulation”;

(2) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d); and

(3) by revising the first sentence in subsection (d), as redesignated, to read as follows: “The person that provided the shipping paper and the carrier required to keep it under this section shall retain the paper, or an electronic image of it, for a period of 3 years after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.”.

## SEC. 12. RAIL TANK CARS.

Chapter 51 is amended by striking section 5111 and by striking the corresponding item in the analysis of chapter 51.

## SEC. 13. UNSATISFACTORY SAFETY RATING.

(a) Section 5113 is amended by adding at the end the following:

“(e) PENALTY FOR VIOLATION.—A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter and shall be subject to the penalties in sections 5123 and 5124 of this chapter.”.

(b) Section 31144(c) is amended—

(1) in paragraph (1), by striking “sections 521(b)(5)(A) and 5113” and inserting “section 521(b)(5)(A)”;

(2) in paragraph (3), by striking “interstate commerce” and inserting “commerce”; and

(3) by adding at the end of paragraph (3) the following: “A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this chapter.”.

(c) Section 31144 is amended by striking the subsection designation “(c)” at the beginning of the last subsection and inserting “(f)”.

## SEC. 14. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended—

(1) in subsection (a), by—

(A) striking “DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in” and inserting “GENERAL.—In”;

(B) striking “national response team” and inserting “National Response Team” in the first sentence;

(C) striking “develop and update periodically a” in the first sentence and inserting “maintain a current”; and

(D) striking the second sentence;

(2) in subsection (b), by—

(A) striking “developed” and inserting “maintained” in the first sentence; and

(B) in paragraph (1)(C), by striking “under other United States Government grant programs, including those developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9606a)” and inserting “with Federal financial assistance”;

(3) in subsection (c)(3), by striking “the National Fire Protection Association” and inserting “the National Fire Protection Association and such other voluntary consensus standard-setting organizations as the Secretary deems appropriate”; and

(4) by revising subsection (d) to read as follows:

“(d) DISTRIBUTION AND PUBLICATION.—With the National Response Team, the Secretary of Transportation may publish and distribute a list of courses developed under this section and of programs using any of those courses.”.

#### SEC. 15. PLANNING AND TRAINING GRANTS.

(a) Section 5116 is amended—

(1) in the second sentence of subsection (e), by striking “of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)” and inserting “received by the State or tribe under subsections (a)(1) and (b)(1)”;

(2) revising subsection (f) to read as follows:

“(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public-sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.”.

(3) in subsection (g), by striking “Government grant” and inserting “Federal financial assistance”;

(4) by revising subsection (i) to read as follows:

“(i) EMERGENCY PREPAREDNESS FUND.—The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

“(1) to make grants under this section;

“(2) to monitor and provide technical assistance under subsection (f) of this section;

“(3) to publish and distribute the Emergency Response Guidebook; and

“(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.”; and

(5) by striking subsection (k).

(b) Chapter 51 is amended by—

(1) revising the section heading for section 5116 to read “Planning and training grants; emergency preparedness fund”; and

(2) striking the item for section 5116 in the analysis of the chapter and inserting “5116. Planning and training grants; emergency preparedness fund.”.

#### SEC. 16. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended—

(1) by revising the section heading to read as follows:

“§ 5117. Special permits and exclusions”;

(2) by striking “exemption” and “an exemption” each place they appear and inserting, respectively, “special permit” and “a special permit”;

(3) in subsection (a)(1), as revised by Section 16(a)(2) of this Act, by striking “issue a special permit” and inserting “issue, modify, or terminate a special permit authorizing variances”, and by striking “transporting, or causing to be transported, hazardous material” and inserting “performing a function regulated by the Secretary under section 5103(b)(1) of this title”; and

(4) in subsection (a)(2), by striking “2” and inserting “4”.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

“5117. Special permits and exclusions.”.

#### SEC. 17. INSPECTORS.

Chapter 51 is amended by striking section 5118 and striking the corresponding item in the analysis of chapter 51.

#### SEC. 18. UNIFORM FORMS AND PROCEDURES.

Section 5119 is revised to read as follows:

##### “§ 5119. Uniform forms and procedures

“(a) REGULATIONS.—(1) The Secretary of Transportation may prescribe regulations to establish uniform forms and procedures for a State—

“(A) to register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicle in the State; and

“(B) to allow the transportation of hazardous material in the State.

“(2) A regulation prescribed under this section may not define or limit the amount of a fee a State may impose or collect.

“(b) EFFECTIVE DATE.—A regulation prescribed under this section takes effect one year after it is prescribed. The Secretary may extend the one-year period for an additional year for good cause. After a regulation is effective, a State may establish, maintain, or enforce a requirement related to the same subject matter only if the requirement is the same as the regulation.

“(c) UNIFORMITY.—The Secretary shall develop a procedure to eliminate differences in how States carry out a regulation prescribed under this section.

“(d) INTERIM STATE PROGRAMS.—Pending promulgation of regulations under this section, States may participate in a program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.”.

#### SEC. 19. ADMINISTRATIVE.

Section 5121 is revised to read as follows:

##### “§ Sec. 5121. Administrative

“(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order directing compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.

“(b) RECORDS, REPORTS, PROPERTY, AND INFORMATION.—A person subject to this chapter shall—

“(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

“(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an investigation.

“(c) INSPECTIONS AND INVESTIGATIONS.—(1) A designated officer or employee of the Secretary may—

“(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to a function described in section 5103(b)(1) of this chapter;

“(B) except for the packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;

“(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures adopted under subsection (e) of this section;

“(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages, to ascertain the nature and hazards of the contents of the package or packages;

“(E) as necessary, under terms and conditions specified by the Secretary, order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages to have the package or packages transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

“(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

“(2) An officer or employee acting under this subsection shall display proper credentials when requested.

“(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package or transport unit.

“(d) EMERGENCY ORDERS.—(1) If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

“(2) The Secretary’s action under paragraph (1) of this subsection shall be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.

“(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5, if a petition for review is filed within 20 calendar days after issuance of the order.

“(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition

was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

“(5) For purposes of this subsection, ‘out-of-service order’ means a mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until specified conditions have been met.

“(e) REGULATIONS.—The Secretary shall issue regulations in accordance with section 553 of title 5, including an opportunity for informal oral presentation, to implement the authority in subsections (c) and (d) of this section.

“(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

“(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

“(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the United States Government and State, local and tribal governments on meeting an emergency related to the transportation of hazardous material; and

“(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

“(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

“(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, and emergency response planning and training activities.”.

#### SEC. 20. ENFORCEMENT.

Section 5122 is amended—

(1) in subsection (a), by revising the last sentence to read as follows:

“The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123 of this chapter.”; and

(2) in subparagraph (b)(1)(B), by striking “or ameliorate the” and inserting “or mitigate the”.

#### SEC. 21. PENALTIES.

(a) Section 5123 is amended—

(1) by revising subsection (a) to read as follows:

“(a) PENALTY.—(1) A person that knowingly violates this chapter, or a regulation, order, special permit, or approval issued under this chapter, is liable to the United States Government for a civil penalty of at least \$250 but not more than \$100,000 for each violation.

“(2) Knowledge by the person of the existence of a statutory provision, or a regulation

or requirement prescribed by the Secretary is not an element of an offense under this section.

“(3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues”; and

(2) by redesignating subsections (b) through (g) as subsections (c) through (h) and inserting a new subsection (b) to read as follows:

“(b) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

“(1) the person has actual knowledge of the facts giving rise to the violation; or

“(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.”;

(3) in subsection (c), as redesignated, by striking the first sentence and inserting the following:

“The Secretary of Transportation may find that a person has violated this chapter, or a regulation, order, special permit or approval issued under this chapter, only after notice and an opportunity for a hearing.”; and

(4) by revising subsection (e), as redesignated, to read as follows:

“(e) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on that penalty calculated in the manner described under section 2705 of title 33. In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.”.

(b) Section 5124 is revised to read as follows:

#### “§ 5124. Criminal penalty

“(a) GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

“(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this chapter or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.

“(c) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

“(1) the person has actual knowledge of the facts giving rise to the violation; or

“(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

“(d) WILLFUL VIOLATIONS.—In this section, a person acts willfully when the person acts with intent.

“(e) KNOWLEDGE OF REQUIREMENTS.—Knowledge by a person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary, is not an element of an offense under this section.”.

(c) Section 46312 is amended—

(1) in subsection (a), by striking “under this part” and inserting “under this part or under chapter 51 of this title”; and

(2) in subsection (b), by striking “by the Secretary” and inserting “by the Secretary under this part or under chapter 51 of this title”.

#### SEC. 22. PREEMPTION.

Section 5125 is amended—

(1) by redesignating subsections (a), (b), and (c), as subsections (b), (c), and (d), and adding a new subsection (a) to read as follows:

“(a) PURPOSES.—The Secretary shall exercise the authority in this section to achieve

uniform regulation of hazardous material transportation, eliminate inconsistent rules that apply differently than rules issued under this chapter, and promote the safe and efficient movement of hazardous material in commerce.”;

(2) in subsection (b), as redesignated, by—

(A) striking “GENERAL.—Except as provided in subsections (b), (c), and (e)” and inserting “DUAL COMPLIANCE AND OBSTACLE TESTS.—Except as provided in subsections (c), (d), and (g)”;

(B) in subparagraph (2), striking “carrying out this chapter or a regulation” and inserting “carrying out this chapter, the purposes of this chapter, or a regulation”;

(3) in subsection (c), by—

(A) in subparagraph (1), striking “(c)” and inserting “(d)”;

(B) revising subparagraph (1)(E) to read as follows:

“(E) the manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing of a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce.”; and

(C) in subparagraph (2), striking “after November 16, 1990”;

(4) by striking subsection (f) and redesignating subsections (g), (d), and (e) as subsections (e), (f), and (g);

(5) in subsection (f), as redesignated, by striking “subsection (a), (b)(1), or (c) of this section” and inserting “subsection (b), (c)(1), (d), or (e) of this section or subsection 5119(b) of this chapter.”; and by striking “in the Federal Register”;

(6) in subsection (g), as redesignated, by striking “subsection (a), (b)(1), or (c) of this section” and inserting “subsection (b), (c)(1), (d), or (e) of this section or subsection 5119(b) of this chapter.”; and

(7) by adding new subsections (h) and (i) to read as follows:

“(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in section 5119(b) of this chapter is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.

“(i) NONFEDERAL ENFORCEMENT STANDARDS.—This section does not apply to procedure, penalty, or required mental state or other standard used by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to transportation of a hazardous material.”.

#### SEC. 23. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by revising subsection (a) to read as follows:

“(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports hazardous material or causes hazardous material to be transported, or manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce shall comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the United States Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing that is in or affects commerce must comply with the provision, regulation, order, or requirement.”; and

(2) in subsection (b), by—

(A) striking "title 18 or 39;" and inserting "title 18 or 39; or" in paragraph (2); and

(B) adding a new paragraph (3) to read as follows:

"(3) marine transportation of hazardous material subject to regulation under title 33 or 46."

#### SEC. 24. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

##### "§ 5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary of Transportation under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm, amend, modify, or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

"5127. Judicial review.

"5128. Authorization of appropriations."

#### SEC. 25. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 24 of this Act, is amended to read as follows:

##### "§ 5128. Authorization of appropriations

"(a) GENERAL.—To carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119), not more than \$21,217,000 is authorized to be appropriated to the Secretary of Transportation for fiscal year 2002; and such sums as may be necessary are authorized to be appropriated to the Secretary for fiscal years 2003 through 2007.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available from the Emergency Preparedness Fund account the following:

"(1) To carry out section 5116(j) of this title, \$250,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(2) To carry out section 5115 of this title, \$200,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(3) To carry out section 5116(a) of this title, \$5,000,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(4) To carry out section 5116(b) of this title, \$7,800,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(5) To carry out section 5116(f) of this title, \$150,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(6) To publish and distribute the Emergency Response Guidebook, \$500,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(7) To carry out section 5107(e) of this title, such amounts as may be necessary are authorized to be appropriated to the Secretary for each of fiscal years 2002 through 2007.

"(8) To carry out section 5116(i)(4) of this title, \$400,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

"(c) CREDITS TO APPROPRIATIONS.—The Secretary of Transportation may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(d) AVAILABILITY OF AMOUNTS.—Amounts available under this section remain available until expended."

#### SEC. 26. POSTAL SERVICE CIVIL PENALTY AUTHORITY.

(a) Section 3001 of title 39, United States Code, is amended by adding a new subsection (o) as follows:

"(o)(1) Except as permitted by law and Postal Service regulation, hazardous material is nonmailable.

"(2) For purposes of this section, the term 'hazardous material' means a substance or material the Secretary of Transportation designates under section 5103(a) of title 49."

(b) Chapter 30 of title 39, United States Code, is amended by adding a new section 3018 at the end as follows:

##### "§ 3018. Hazardous material; civil penalty

"(a) REGULATIONS.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) HAZARDOUS MATERIAL IN THE MAIL.—No person may—

"(1) mail or cause to be mailed a hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed a hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which a hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of a hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of a hazardous material.

"(c) CIVIL PENALTY.—

"(1) A person that knowingly violates this section or a regulation issued under this section is liable to the Postal Service for a civil penalty of at least \$250 but not more than \$100,000 for each violation, and for any clean-up costs and damages. A person acts knowingly when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

"(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Postal Service is not an element of an offense under this section.

"(3) A separate violation occurs for each day a hazardous material, mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section, is in the mail.

"(4) A separate violation occurs for each item containing a hazardous material that is mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section.

"(d) HEARING REQUIREMENT.—The Postal Service may find that a person has violated this section or a regulation issued under this section only after notice and an opportunity for a hearing. Under this section, the Postal Service shall impose a penalty and recover clean-up costs and damages by giving the person written notice of the amount of the penalty, clean-up costs, and damages.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on postal operations; and

"(4) other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—(1) In accordance with section 409(d) of this title, the Department of Justice or the Postal Service may commence a civil action in an appropriate district court of the United States to collect a civil penalty, clean-up costs, or damages assessed under this section. In such action, the validity, amount, and appropriateness of the civil penalty, clean-up costs, or damages shall not be subject to review.

"(2) The Postal Service may compromise the amount of a civil penalty, clean-up costs, or damages assessed under this section before civil action is taken to collect the penalty, costs, or damages.

"(g) CIVIL JUDICIAL PENALTIES.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Postal Service in an administrative case under this section.

"(h) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be paid into the Postal Service Fund established by section 2003 of this title."

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding the following:

"3018. Hazardous material; civil penalty."

Mr. MCCAIN. Madam President, I am pleased to join Chairman HOLLINGS in introducing the Hazardous Materials Transportation Safety reauthorization Act of 2001 at the request of the Administration. This measure is a good start toward improving and strengthening the safe and secure transport of our nation's hazardous materials. In addition

to authorizing funding for hazardous materials transportation safety programs, this legislation addresses concerns arising since the attacks of September 11. Among other things, this bill would strengthen the authority of Department of Transportation (DOT) inspectors to inspect packages being transported, and provide those inspectors with the authority to stop unsafe transportation. This measure would also increase the maximum civil penalty for violations of hazardous materials regulations from \$27,500 to \$100,000. It would expand the requirements for training persons involved in the transportation of hazardous materials and strengthen the enforcement authority of State enforcement officials.

The hazardous materials transportation safety program reauthorization is long overdue. The most recent authorization expired September 30, 1998. Since then, attempts at reauthorization have failed due to objections within Congress and an inability to reach an agreement on certain proposals with the former administration. Now, however, it is appropriate to attempt to move forward and address identified safety problems and improve safety for all Americans. I am hopeful that the Senate will act quickly to take the necessary action to improve hazardous materials transportation safety before we are forced to respond to another attack making use of our nation's transportation system.

Annually, more than four billion tons of hazardous materials—about 800,000 shipments daily—are transported by land, sea, and air in the United States. Among these materials are flammable liquids, combustible solids, gases, and corrosive materials. Despite the wide variety and amount of shipments, the hazardous materials transportation industry has a notable safety record, due in large part to the safety efforts of the individuals and companies involved in transporting these materials. In 1999, for instance, there were five hazardous materials related fatalities, down from thirteen in 1998 and twelve in 1997. However, in light of the attacks of September 11, it is more important than ever to reauthorize this important program. Reauthorization should include new authority for enforcement officials and clarify existing authority for the federal agencies that administer the programs responsible for hazardous materials transportation safety.

The Federal Government has four roles related to hazardous materials transportation: regulation, enforcement, emergency response, and data collection and analysis. The DOT performs the largest role of establishing and enforcing Hazmat regulations, while the Research and Special Program Administration (RSPA), and to a lesser extent other agencies within the Department, are charged with more specific roles.

RSPA is responsible for the regulation and identification of hazardous

materials including hazardous materials handling and shipments, the development of container standards and testing procedures, the inspection and enforcement of multimodal shippers and container manufacturers, and for data collection. This legislation would provide authority to RSPA to continue its hazardous materials safety activities. In addition, the measure would grant the United States Postal Service (USPS) similar authority to DOT and its agencies to collect civil penalties and recover costs and damages for violations of its hazardous materials regulations.

With this bill, jurisdiction between the DOT and the Occupational Safety and Health Administration (OSHA) would be clarified as it pertains to hazardous materials transportation. Dual jurisdiction over handling criteria registration, and motor carrier safety would be eliminated, leaving DOT with sole jurisdiction over these programs. Hazardous materials transportation employee training and occupational safety and health protection of employees responding to a release of hazardous materials would remain under the jurisdiction of both DOT and OSHA.

I hope this Congress will act expeditiously to approve comprehensive hazardous materials transportation safety legislation. We simply cannot afford another missed opportunity to address transportation safety shortcomings. We must do all we can to ensure the safe transport of these materials, including providing the needed resources to the agencies charged with oversight of this industry. The Administration is correct in asking Congress to address hazardous materials transportation reauthorization. I will be working with Chairman HOLLINGS and look forward to hearings in the near future to address this important reauthorization proposal.

#### SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 81—EXPRESSING THE SENSE OF CONGRESS TO WELCOME THE PRIME MINISTER OF INDIA, ATAL BIHARI VAJPAYEE, ON THE OCCASION OF HIS VISIT TO THE UNITED STATES, AND TO AFFIRM THAT INDIA IS A VALUED FRIEND AND PARTNER AND AN IMPORTANT ALLY IN THE CAMPAIGN AGAINST INTERNATIONAL TERRORISM

Mr. BIDEN (for himself, Mr. HELMS, Mr. WELLSTONE, Mr. BROWNBACK, Mr. SARBANES, Mr. TORRICELLI, Mr. DASCHLE, Mr. ALLEN, Mr. DODD, and Mr. KERRY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 81

Whereas Congress is pleased to welcome the Prime Minister of India, Atal Bihari Vajpayee, on his visit to the United States;

Whereas the United States and India, the world's two largest democracies, are natural allies, based on their shared values and common interests in building a stable, peaceful, and prosperous world in the 21st century;

Whereas from the very day that the terrorist attacks in New York and Washington occurred, India has expressed its condolences for the terrible losses, its solidarity with the American people, and its pledge of full cooperation in the campaign against international terrorism;

Whereas India, which has been on the front lines in the fight against international terrorism for many years, directly shares America's grief over the terrorist attacks against the United States on September 11, 2001, with the number of missing Indian nationals and persons of Indian origin estimated at 250;

Whereas the United States and India are engaged as partners in a global coalition to combat the scourge of international terrorism, a partnership that began well before the tragic events of September 11, 2001;

Whereas cooperation between India and the United States extends beyond the current international campaign against terrorism, and has been steadily developing over recent years in such areas as preserving stability and growth in the global economy, protecting the environment, combating infectious diseases, and expanding trade, especially in emerging knowledge-based industries and high technology areas; and

Whereas more than 1,000,000 Americans of Indian heritage have contributed immeasurably to American society: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress—*

(1) to welcome the Prime Minister of India, Atal Bihari Vajpayee, to the United States;

(2) to express profound gratitude to the Government of India for its expressions of sympathy for the September 11, 2001, terrorist attacks and its demonstrated willingness to fully cooperate with the United States in the campaign against terrorism; and

(3) to pledge commitment to the continued expansion of friendship and cooperation between the United States and India.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2114. Mr. SMITH, of New Hampshire proposed an amendment to the bill S. 1428, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

SA 2115. Mr. GRAHAM proposed an amendment to amendment SA 2114 submitted by Mr. Smith, of NH and intended to be proposed to the bill (S. 1428) supra.

SA 2116. Mr. GRAHAM proposed an amendment to the bill S. 1428, supra.

#### TEXT OF AMENDMENTS

SA 2114. Mr. SMITH of New Hampshire proposed an amendment to the bill S. 1428, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

**SEC. \_\_\_\_ . ALIEN TERRORIST REMOVAL ACT OF 2001**

(a) **SHORT TITLE.**—This section may be cited as the “Alien Terrorist Removal Act of 2001”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) In 1993, international terrorists targeted and bombed the World Trade Center in New York City.

(2) In 1996, Congress enacted the Antiterrorism and Effective Death Penalty Act, which established the Alien Terrorist Removal Court for the purpose of removing alien terrorists from the United States based on classified information.

(3) On May 28, 1997, the Court adopted “Rules for the Alien Terrorist Removal Court of the United States” which was later amended on January 4, 1999.

(4) The Court is comprised of 5 United States District Judges who are designated by the Chief Justice of the United States to hear cases in which the United States seeks the removal of alien terrorists.

(5) On September 11, 2001, terrorists hijacked 4 civilian aircraft, crashing 2 of the aircraft into the towers of the World Trade Center in the New York City, and a third into the Pentagon outside Washington, D.C.

(6) Thousands of innocent Americans and citizens of other countries were killed or injured as a result of these attacks, including the passengers and crew of the 4 aircraft, workers in the World Trade center and in the Pentagon, rescue worker, and bystanders.

(7) These attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon.

(8) These attacks were by far the deadliest terrorist attacks ever launched against the United States and, by targeting symbols of America, clearly were intended to intimidate our Nation and weaken its resolve.

(9) As of September 11, 2001, the United States had not brought any cases before the Alien Terrorist Removal Court.

(10) The Court has never been used because the United States is required to submit for judicial approval an unclassified summary of the classified evidence against the alien. If too general, this summary will be disapproved by the Judge. If too specific, this summary will compromise the underlying classified information.

(11) The notice provisions of the Alien Terrorist Removal Court should be modified to remove the barrier to the Justice Department's effective use of the Court.

(c) **ALIEN TERRORIST REMOVAL HEARING.**—Section 504(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1534(e)(3)) is amended—

(1) by striking “(A) USE.—”.

(2) by striking “other than through reference to the summary provided pursuant to this paragraph”; and

(3) by striking subparagraphs (B) through (F).

(d) **REPORTS TO CONGRESS.**—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to Congress on the utilization of the Alien Terrorist Removal Court for the purposes of removing alien terrorists from the United States through the use of classified information.

**SA 2115.** Mr. GRAHAM proposed an amendment to amendment SA 2114 submitted by Mr. SMITH, of NH and intended to be proposed to the bill (S. 1428) to authorize appropriations for

fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Strike all after the word “sec” and insert the following:

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding the following subsection after subsection (k):

“(L) No later than 3 months from the date of enactment of this act, the Attorney General shall submit a report to Congress concerning the effect and efficacy of Alien Terrorist Removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past, and the effect on the use of these proceedings after the enactment of the U.S.A. PATRIOT Act of 2001.

**SA 2116.** Mr. GRAHAM proposed an amendment to the bill S. 1428, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Insert at the appropriate place in the bill: The DCI shall provide, prior to conference, any technical modifications to existing legal authorities needed to facilitate Intelligence Community counterterrorism efforts.

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 8, 2001. The purpose of this hearing will be to continue markup on the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, November 8, 2001, at 9:30 a.m., in open session to consider the nominations of R.L. Brownlee to be Under Secretary of the Army, Dale Klein to be Assistant to the Secretary of Defense for nuclear and Chemical and Biological Defense Programs, and Peter B. Teets to be Under Secretary of the Air Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, November 8, 2001, at 2:30

p.m., on the nomination of Vice Admiral Conrad C. Lautenbacher, Jr., to be Under Secretary for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRAHAM. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet on Thursday, November 8, 2001, at 2 p.m., to conduct a business meeting in SD-406 on the following items:

1. Nomination of William W. Baxter to be a Member of the Board of Directors of the Tennessee Valley Authority;

2. Nomination of Kimberly Terese Nelson to be an Assistant Administrator of the Office of Environmental Information, U.S. Environmental Protection Agency; and

3. Nomination of Steven A. Williams to be Director of the United States Fish and Wildlife Service, U.S. Department of the Interior.

4. S. 835—Detroit River International Wildlife Refuge Establishment Act;

5. S. 990—American Wildlife Enhancement Act of 2001;

6. S. 1459—a bill to designate the Federal building and United States Courthouse located at 550 West Front Street in Boise, Idaho, as the “James A. McClure Federal Building and United States Courthouse”;

7. S. 1593—Water Infrastructure Security and Research Development Act;

8. S. 1608—a bill to establish a program to provide grants to drinking water and wastewater facilities to meet immediate security needs;

9. S. 1621—a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of community members, volunteers, and workers in a disaster area;

10. S. 1622—a bill to extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of the terrorist attacks of September 11, 2001;

11. S. 1623—a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to appoint Children's Coordinating Officers for disaster areas in which children have lost 1 or more custodial parents;

12. S. 1624—a bill to establish the Office of World Trade Center Attack Claims to pay claims of injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes;

13. S. 1631—a bill to amend the Robert T. Stafford Disaster Relief and Emergency Response Assistance Act to Study of Emergency Communications Response System;

14. S. 1632—a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to extend the deadline for submission of State recommendations of local governments to receive assistance for predisaster hazard mitigation and to authorize the President to provide additional repair assistance to individuals and households.

15. S. 1637—a bill to waive certain limitations on the use of the emergency fund for repair or reconstruction of highways, roads, and trails that suffered serious damage as a result of the September 11 attack on the World Trade Center;

16. H.R. 643—African Elephant Conservation Reauthorization Act of 2001;

17. H.R. 645—Rhinoceros and Tiger Conservation Reauthorization Act of 2001;

18. H.R. 700—Asian Elephant Conservation Reauthorization Act of 2001;

19. S. Con. Res. 80—Expressing the sense of Congress regarding the 30th Anniversary of the Enactment of the Federal Water Pollution Control Act;

20. U.S. Army Corps of Engineers Study Resolution for Tybee Island, Georgia; and

21. Several GSA Building and Lease Committee Resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FINANCE

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session of the Senate on Thursday, November 8, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 8, 2001, at 10 a.m., to hold a nomination hearing.

#### Agenda

*Nominees:* Eric Javits, of New York, for the rank of Ambassador during his tenure of service as U.S. Representative to the Conference on Disarmament; Christopher Burnham, of Connecticut, to be Chief Financial Officer and an Assistant Secretary of State (Resource Management); Sichan Siv, of Texas, to be Representative of the United States of America on the Economic and Social Council of the United Nations and an Alternate Representative to the Session of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations; and Richard Williamson, of Illinois, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 8, 2001, after the next rollcall vote to hold a business meeting.

The Committee will consider and vote on the following nominees: Sichan Siv, of Texas, to be Representative of the United States of America on the Economic and Social Council of the United Nations and an Alternate Representative to the Session of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations, and Richard Williamson, of Illinois, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations and to be the Alternate U.S. Representative to the Sessions of the General Assembly of the United Nations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 8, 2001, at 10 a.m., in Dirksen Room 226.

#### Tentative Agenda

I. Nominations: Terry L. Wooten to be U.S. District Court Judge for the District of South Carolina and John P. Walters to be Director of the Office of National Drug Control Policy.

II. Bills: S. 1630, a bill to extend for 6 additional months the period for which chapter 12 of title 11, United States Code, is reenacted [Carnahan/Grassley/Leahy/Bond/Harkin/Sessions/Brownback] and S. 986, a bill to allow media coverage of court proceedings [Grassley/Schumer/Leahy/Smith/Allard/Feingold/Specter].

III. Resolution: S. Res. 23, A resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian [Cleland/Miller/Hollings].

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that the following list of staff members of the Senate Select Committee on Intelligence be granted the privilege of the floor during consideration of S. 1428: Jim Barnett, Randy Bookout, Steven Cash, Thomas Corcoran, Paula DeSutter, Vicki Divoll, F.F., Peter Dorn, Melvin Dubee, Christopher Ford, Lorenzo Goco, Christopher Jackson, Ken Johnson, Mary Pat Lawrence, Mark Magee,

Kathleen McGhee, Don Mitchell, Ken Myers, Don Stone, Linda Taylor, Tracey Winfrey, James Wolfe, and Amanda Krohn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that Joel Widder, a detailee to the Appropriations Committee, be granted the privilege of the floor during the consideration of the VA-HUD conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to executive session to consider the nominations reported out earlier today by the Armed Services Committee, that the nominations be confirmed, the motion to reconsider be laid on the table, that any statements thereon be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### DEPARTMENT OF DEFENSE

Dale Klein, of Texas, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

Mary L. Walker, of California, to be General Counsel of the Department of the Air Force.

R. L. Brownlee, of Virginia, to be Under Secretary of the Army.

Marvin R. Sambur, of Indiana, to be an Assistant Secretary of the Air Force.

Sandra L. Pack, of Maryland, to be an Assistant Secretary of the Army.

#### NOMINATION OF R.L. BROWNLEE

Mr. REID. Madam President, present today is Senator WARNER, former chairman of the Armed Services Committee. Also momentarily will be here the present chairman of the Armed Services Committee, Senator LEVIN. They wish to speak in just a short time on the nomination of Mr. Brownlee to be Under Secretary of the Army.

I had the pleasure of working with him during the time Senator WARNER was chairman and Senator LEVIN was chairman on the matters of this bill. He has been an integral part of moving these armed services bills.

I, as a Democrat, depended on him, he representing the Republican leader on the Armed Services Committee. I just can't say enough nice things about him. I know Senator WARNER and Senator LEVIN will say more at the appropriate time.

#### NOMINATION DISCHARGED

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of Executive Calendar No. 436, that the HELP Committee be discharged from further consideration of the nomination of

Federico Juarbe, Jr., to be Assistant Secretary of Labor for Veterans Employment and Training; that the nominations be confirmed, the motions to reconsider be laid on the table, any statements be printed in the RECORD, and the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### DEPARTMENT OF JUSTICE

Jay B. Stephens, of Virginia, to be Associate Attorney General.

#### DEPARTMENT OF LABOR

Federico Juarbe, Jr., of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### WELCOMING PRIME MINISTER OF INDIA ATAL BIHARI VAJPAYEE

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to immediate consideration of S. Con. Res. 81, introduced earlier today by Senators BIDEN and HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 81) expressing the sense of Congress to welcome the Prime Minister of India, Atal Bihari Vajpayee, on the occasion of his visit to the United States, and to affirm that India is a valued friend and partner and an important ally in the campaign against international terrorism.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 81) was agreed to.

The preamble was agreed to.

The text of the concurrent resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions."

#### ORDERS FOR FRIDAY, NOVEMBER 9, 2001

Mr. REID. Madam President, I ask unanimous consent when the Senate completes its business today, it adjourn until the hour of 10 a.m. Friday, November 9, that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two

leaders be reserved for their use later in the day, and the Senate be in a period of morning business, with Senators permitted to speak for 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR ADJOURNMENT

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment after the statements of Senators WARNER and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The senior Senator from Virginia.

#### NOMINATION OF R.L. BROWNLEE OF VIRGINIA TO BE UNDER SECRETARY OF THE ARMY

Mr. WARNER. I express my appreciation to our distinguished acting majority leader tonight for his courtesy. Senator LEVIN has now joined me on the floor. I defer to the chairman to lead off.

Mr. LEVIN. I think it is particularly appropriate, given the very special relationship Senator WARNER has had in particular with Les Brownlee, for him to lead off. I will just add a few comments to what the Senator says.

Mr. WARNER. I thank my good friend and chairman, Mr. LEVIN. We have served 23 years together, and throughout this day we met four or five times on the conference report and other matters. It is an extraordinary opportunity to serve America with such fine people as Senator LEVIN, Senator REID, and others.

Anyway, to the matter at hand.

Madam President, I will start off. I wish to address the Senate with regard to the nomination by the President of the United States, of Colonel Les Brownlee, United States Army, Retired.

I cannot in words express my gratitude to this wonderful American for his service to the Senate, to the Committee on the Armed Services, and to me personally over these 18 years that he has been a Member of the Senate family and organization.

When I introduced him to the committee today, I reflected that some 32 years ago I sat in the same seat before the committee. Senator THURMOND was a member of the Committee, and I believe Senator BYRD may well have been a Member at that time; I would like to check the record on that. But there I was as a young man taking on the job as Under Secretary of the Navy, as my dear friend Colonel Brownlee is now taking on the job as Under Secretary of the Army.

The war at that time was raging in Vietnam. A war tonight is raging beyond our shores, in the area of Afghanistan, where men and women of the Armed Forces are risking their lives. So he joins the Department of Defense at a critical time, as did I.

While I came up sort of through the political ranks, he came up through the ranks as a professional soldier and 18 years of service to the Senate. It was on those qualifications that I was privileged to recommend him to the President. The recommendation was accepted and tonight he was confirmed by the Senate.

It is an important day for Les Brownlee. It is an important day for the Senate and for our committee. I may say that his son, John, and his daughter, Tracy, and other family members are present at this time.

Les has a distinguished career in the U.S. Army. He served in Vietnam. Our periods somewhat overlapped. For 5 years and 4 months I was in the Pentagon. During that period, or prior thereto, Les won the Silver Star with Oakleaf Cluster. That means two Silver Stars. He won the Bronze Star with two Oakleaf Clusters. That means three Bronze Stars. And, he won the Purple Heart.

Les and I have a very close personnel relationship. We've traveled the world together on behalf of the Senate Armed Services Committee. There are times when we have strongly disagreed on subjects. At those times, we go into a room; he takes off his colonel's insignia and I take off the U.S. Senate insignia, and we have at it. Most often we reach a mutual decision. Occasionally, Judy Ansley, who moves up from Deputy to Staff Director, has arbitrated our disputes. Nevertheless, we've had a marvelous relationship in which he's given me the unvarnished truth and advice.

Les Brownlee's record and knowledge about the Department of the Army is second to none. It is extraordinary. He returns to the service of the Army, an organization for which he expressed his love today in those very words, at a time when the Army is going through a very significant period of transition—transitioning in a manner to recognize the changed world in which we live. That world was beginning to change long before September 11 of this year.

Our committee has been working with the previous Secretaries of the Army and Defense, and previous Army Chiefs of Staff. It has been a long evolution. But largely, under the current Chief of Staff and the current Secretary of the Army, one of the major elements of that transformation will take place, and Les Brownlee will be right there to assist and to provide the knowledge.

He sent a note of humor about how he is in all probability returning to the very same office from whence he departed, to come to the Senate, 18 years ago having served as the principal military aid to the then-Under Secretary of the Army. What a fascinating coincidence.

He will also be entrusted with the issues involving homeland defense. The Department of the Army has a very special mission in this area.

Fortunately, the Senate Armed Services Committee established some years

ago a subcommittee to take over certain responsibilities on emerging threats as best we could see them at that time. None of us could envision the events of September 11. Nevertheless our committee, under my chairmanship, following with the chairmanship of our distinguished Senator from Michigan, we continued that work.

Les takes great credit, together with other staff members, in laying out the platforms and the goals of that subcommittee which we achieved in large measure.

I also think, very clearly with a sense of humility, that he exemplifies the extraordinary quality of individuals who come to the Senate to work as staff members. He just gives those people inspiration. As that room was filled today in the hearing, you could see in their hearts and their minds—there were probably 30 to 40 of them assembled there—that someday any one of them could be sitting where he is.

We are privileged in our committee to have had a number of our staff members move on into Presidential appointments in both administrations, Republican and Democrat.

So it is a great day. Chairman LEVIN presided over it with his usual dignity and feeling.

At this moment, I yield the floor so that perhaps he can add his own observations.

We are joined in the Chamber by a very fine staff person, Judy Ansley, who, as I noted earlier, will succeed Les as Chief of Staff. Mrs. Ansley has been his Deputy for a number of years. I am pleased to recognize her presence here today.

The PRESIDING OFFICER. The senior Senator from Michigan.

Mr. LEVIN. Thank you, Madam President. I thank Senator WARNER.

When my career here is over and I look back on it, one of the real highlights will always be that I came with Senator WARNER and that we have served together on the Armed Services Committee—both as chairman, always as friends, always with total trust, not always with total agreement, but always having our singular goal of a bipartisan security policy for this Nation.

Senator WARNER has been an extraordinary member of that committee. I watched him through the years as he has pulled together people with diverse views to reach a common goal.

It was a pleasure to join with him as he recommended to the President the nomination of Les Brownlee to be Under Secretary of the Army.

It is always a special day for the committee when one of our staff is nominated to a high position in the executive branch. This is a special day for us.

We hate to lose Les. He has been of tremendous and inestimable value in the committee and to both sides of the aisle when we bring our bills to the floor.

This is a committee that I think sets the standard for how we should operate

in a bipartisan manner in this Senate. It has always had that tradition. Senator WARNER maintained that tradition beautifully. I seek to emulate that kind of a role model that he and many Senators before him set when they were chairmen of that very special committee.

Les will be leaving us. He will be crossing the Potomac. He will be back in his beloved Army. I can't think of anyone better qualified to serve in that position than Les because of the experience, which Senator WARNER has outlined, and what Les brings to the job his commitment, spirit, and love for the Army. We always rely on our staff to give us their total loyalty and their total commitment. Les is surely a shining example of that. But first and foremost, that loyalty is to this country. Les has always shown that loyalty.

The staff director for the majority, David Lyles, is also on the floor, as are other members of the Armed Services Committee staff. Not only have we looked to Les for unvarnished and straight advice, we have always looked to him and David Lyles when they were staff directors, first, for the majority, and then for the minority, to work together to bring the committee a joint bill that we could all support and that would help bring us together.

Our staffs have not only given us advice and guidance, they have truly been instrumental in making this committee a bipartisan example of what security policy should be and what this Senate strives to be, whether it is in the area of defense or any other area.

I noted what Senator WARNER said about Les returning perhaps physically to the same office that he left. I understand he was the military executive to the Under Secretary of the Army. The very position that he was the executive to will now be filled by him. So there is a certain symmetry, and a certain wonderful roundness, to Les's confirmation.

As Senator WARNER said, we are now engaged in a military campaign. Colonel Brownlee was engaged in Vietnam. He served two tours in Vietnam with extraordinary distinction and heroism. He brings to this current challenge an experience that is invaluable so that we do not repeat the mistakes that were made in Vietnam, and so that we avoid any of the pitfalls that faced us as a nation in that war in which so many men and women served so valiantly, with so much honor, and with not nearly enough reward or recognition by their own countrymen back here at home.

What Les brings to this current challenge is of tremendous value. I know, as Senator WARNER said, that we speak for every member of our committee and for our staffs when we say how proud we are of Les. We are proud of not only what he has done for the committee, but we also are very confident of what he will do for the Army and for the Nation in his new capacity.

We wish him all the best. We know we will see a lot of him. To him and his

family, we can only say we are sad to see him go, but we are surely glad that he will occupy the position that he will assume. This nation is safer because it will be in his hands.

I thank the Chair.

Mr. WARNER. Madam President, I thank my very valued and long time special friend, the Senator from Michigan, for his very kind remarks. I reciprocate with equal feelings toward him.

We struggle together, and we are going to succeed. We have a big mission ahead of us in this committee with this conflict. We are behind our President. We want to give him that type of support, and the men and women of the Armed Forces fighting this engagement.

In relation to what the Senator stated, it was Under Secretary James Ambrose with whom Les served.

I appreciate Senator LEVIN singling out his combat record. The men and women of the Armed Forces, across the board, are trained to go into combat situations. Relatively few of them, however, certainly in recent years, because of the nature of combat, are put into those positions.

I was combat trained in World War II, but I did not go into combat. I did visit the battlefields more than once in Korea, but my military career pales in the face of Les Brownlee's and those of the men and women who have really gotten into the thick of it, have been tested, and proved not only to survive, but continue their leadership. They have earned the recognition of their peer group through their personal decorations.

I have a tremendous amount of respect for Colonel Brownlee and, indeed, for many other Members of the Senate with whom I have been privileged to serve in the past and today who have earned those decorations.

While we acknowledge the long list of Colonel Brownlee's accolades, we recognize that the challenges of life are most successfully accomplished as a team effort. Colonel Brownlee's family have shared the challenges and rewards of both his professional military career and his career in the Senate. The journey which brought Colonel Brownlee to this prestigious nomination would not have been possible without the unconditional and loving support of his family.

From the first day that Les and I began working together, he has always been guided by what he thought was in the best interest of our Nation's security, the best interest of the men and women of our Armed Forces, and in the best interest of the Senate. On behalf of a grateful nation, we congratulate Les on his nomination and thank him for his service to the United States Senate. Les brings a special dimension to the Army secretariat, and we wish him well.

I thank my colleague.

Madam President, I think that concludes the matters, and we can go to the standing order.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 6:02 p.m., adjourned until Friday, November 9, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 2001:

THE JUDICIARY

DAVID W. MCKEAGUE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE RICHARD F. SUHRHEINRICH, RETIRED.

SUSAN BIEKE NEILSON, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE CORNELIA G. KENNEDY, RETIRED.

HENRY W. SAAD, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE JAMES L. RYAN, RETIRED.

RALPH R. BEISTLINE, OF ALASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA, VICE H. RUSSEL HOLLAND, RETIRED.

DEPARTMENT OF DEFENSE

CLAUDE M. BOLTON, JR., OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE PAUL J. HOEPER.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8307:

*To be the judge advocate general of the United States Air Force*

MAJ. GEN. THOMAS J. FISCUS, 0000

*To be major general and to be the deputy judge advocate general of the United States Air Force*

BRIG. GEN. JACK L. RIVES, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

CAROL E. PILAT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

ILUMINADA S. CALICDAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (\*)) UNDER TITLE 10, U.S.C., SECTIONS 531 AND 624:

*To be major*

\*JAMES W. WARE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

MEE S. PAEK, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate November 8, 2001:

DEPARTMENT OF DEFENSE

DALE KLEIN, OF TEXAS, TO BE ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.

MARY L. WALKER, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE.

R. L. BROWNLEE, OF VIRGINIA, TO BE UNDER SECRETARY OF THE ARMY.

MARVIN R. SAMBUR, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

SANDRA L. PACK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF LABOR

FREDERICO JUARBE, JR., OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

DEPARTMENT OF JUSTICE

JAY B. STEPHENS, OF VIRGINIA, TO BE ASSOCIATE ATTORNEY GENERAL.

THE JUDICIARY

TERRY L. WOOTEN, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.